THE FINANCIAL SERVICES COMMISSION OF ONTARIO

PENSION BULLETIN

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The Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 as amended, the Pension Benefits Act, R.S.O. 1990, c. P.8 as amended, R.R.O. 1990, Reg. 909 as amended, the terms of the pension plan and trust, if any, and the policies, procedures and practices of FSCO should be considered in determining specific legal requirements, and professional advice should be sought.

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GENERAL ANNOUNCEMENTS

Update on the Proposed Merger of FSCO and the OSC

The Government is currently reviewing the comments and suggestions it has received from its second consultation on the proposed merger between the Ontario Securities Commission (OSC) and the Financial Services Commission of Ontario (FSCO) into a single financial services regulator.

John R. O Toole, Parliamentary Assistant to the Minister of Finance, led the two-month consultation, which was based on the "Establishing a Single Financial Services Regulator: Consultation Draft" that became available for public review on Thursday, April 12, 2001. The deadline for submissions to the draft legislation was Friday, June 29, 2001.

The consultation draft incorporated the comments received during the first consultation which was based on the discussion paper "Improving Ontario's Financial Services Regulation: Establishing a Single Financial Services Regulator." David Young, former Parliamentary Assistant to the Minister of Finance, conducted the initial consultation in the fall of 2000, and received comments from consumers, investors, pension plan members and financial services sector members. While the majority of stakeholders endorsed the plan to merge the OSC and FSCO, many expressed a desire to see further details.

The consultation draft would establish a new commission to be known as the Ontario Financial Services Commission. It would have a Chair, a Commission with 18 members, a separate Pension Tribunal, and would be self-funding and have specified rule-making authority.

Over the past few months, FSCO continued to discuss with stakeholders specific concerns relating to representation and governance, accountability, and the extent of the rule-making under certain statutes administered by FSCO. These discussions have been very productive and informative.

You can view the consultation draft on FSCO's web site at *www.fsco.gov.on.ca*

Appointment of Deputy Superintendent, Pension Division, FSCO

The Financial Services Commission of Ontario recently announced organizational changes to help FSCO meet the continuing regulatory challenges of sustaining a fair, efficient and effective financial services marketplace.

On July 13, 2001, Dina Palozzi, Chief Executive Officer and Superintendent of Financial Services, announced the appointment of Dave Gordon as the new Deputy Superintendent, Pensions. The Superintendent has delegated to the Deputy Superintendent the authority to supervise the pension sector, exercising the powers and duties conferred upon the Superintendent by the *Financial Services Commission of Ontario Act* and other legislation. Mr. Gordon had previously been the Director of the Pension Plans Branch.

The announcement also included the creation of a new Pension Division at FSCO, headed by the Deputy Superintendent. Tom Golfetto has been appointed Acting Director, Pension Plans Branch; he had been the Senior Manager of Operations in the Pension Plans Branch, and had previously established the Financial Hardship Unlocking section at FSCO.

In addition, Ms. Palozzi announced that CAPSA, CCIR and Joint Forum activities, along with Public Affairs and an expanded responsibility for stakeholder relations, have been consolidated into a new branch, Corporate Policy & Public Affairs, under Martin Ship.

According to the Superintendent, the changes respond to stakeholders' desire for clearly identifiable regulatory accountability and a strong alignment of policy development and service delivery.

Dina Palozzi Retires

On July 13, 2001, Dina Palozzi, Chief Executive Officer and Superintendent of Financial Services, retired from the Ontario Public Service, concluding a 29-year career with the Government of Ontario. Ms. Palozzi had been CEO and Superintendent of FSCO since January 1998, a period during which the financial services sector saw tremendous change.

As FSCO's first CEO, Ms. Palozzi brought together the Ontario Insurance Commission, the Pension Commission of Ontario, and the Deposit Institutions Division of the Ministry of Finance, utilizing the strengths within each to establish FSCO as an effective, responsive regulator.

Ms. Palozzi successfully established effective mechanisms for addressing significant pension policy and regulatory issues, through a heightened level of consultation with stakeholder groups. Regulatory decisions, for instance those relating to the treatment of surplus on partial wind up, clearly defined long outstanding issues and provided clarity for the pension industry.

A leader at the national level, Ms. Palozzi chaired the Joint Forum of Financial Market Regulators. She was also a driving force behind the renewal of the Canadian Association of Pension Supervisory Authorities (CAPSA) and the Canadian Council of Insurance Regulators (CCIR) as effective national organizations promoting harmonized regulatory efforts across financial services sectors.

In CAPSA, Ms. Palozzi played an important role as Vice-Chair in the formation of CAPSA's secretariat, and through her enthusiastic support CAPSA was able to complete a number of endeavours.

Philip Howell has been named to the interim position of CEO and Superintendent of Finance Services (Acting) for FSCO, effective July 16, 2001. The search to appoint a permanent replacement has commenced. Stakeholders are being consulted as part of this recruitment process.

Minister of Finance Consults on Surplus Distribution From Defined Benefit Pension Plans

Following through on a promise made in December 2000, Finance Minister Jim Flaherty released a consultation paper, "Surplus Distribution From Defined Benefit Pension Plans" on July 18, 2001. The paper outlines a number of proposals designed to ensure that employers, employees and pensioners are treated in an equitable manner in pension surplus sharing arrangements.

The Ministry of Finance is inviting stakeholders to participate in the consultation by providing comments on proposed reforms to the surplus distribution provisions in the *Pension Benefits Act*. The consultation paper may be obtained at the Ontario Government Bookstore or on the Ministry of Finance website at *www.gov.on.ca/FIN*

Submissions should be forwarded by September 14, 2001, to:

John O'Toole, MPP

Parliamentary Assistant to the Minister of Finance

Ontario Ministry of Finance

7th Floor, & Queen's Park Crescent

Toronto, ON

M7A 1Y7

New Defined Contribution Plan Wind Up Form

April 2001

Dear Financial Services Commission of Ontario Pension Stakeholders,

I am delighted to introduce a standardized *Wind Up Report for Defined Contribution Pension Plans* (a copy of the form and the instructions for completing it are attached). It was developed by the FSCO-CLHIA Procedures Working Group which included representatives from the insurance industry along with staff from the CLHIA and FSCO.

This new form, which has been endorsed by the CLHIA, will simplify the preparation of wind up reports, will allow FSCO staff to process the reports in a more efficient and timely manner and will expedite the release of member entitlements on plan wind up. It is available in pdf format on our web site at *www.fsco.gov.on.ca* under the *Forms* section. Wind up reports submitted in previous formats will continue to be accepted and processed by FSCO. If you have any questions, please contact Mr. Grant Ardern at FSCO's Pension Plan Branch, at (416) 226-7788.

I would like to thank all those involved in developing this form. It is representative of the benefits that can be achieved through co-operative initiatives between the regulator and the industry. Such co-operation enables us to respond effectively to the needs of industry stakeholders by reducing the cost of regulation and most importantly ensuring that the rights and benefits of pension plan members are protected.

Yours truly,

Dina Palozzi
Chief Executive Officer and
Superintendent of Financial Services

Financial Services
Commission
of Ontario

INSTRUCTIONS FOR COMPLETING THE STANDARDIZED WIND UP REPORT FOR DEFINED CONTRIBUTION PENSION PLANS

The ***Pension Benefits Act*, R.S.O. 1990** requires that a wind up report shall be filed for a pension plan that is to be wound up in whole or in part, pursuant to s. 70. The wind up must be effected and administered in accordance with the plan text, and should the plan text require that an amendment or resolution be made in order to wind up the plan, the amendment or resolution should be filed along with a completed Application for Registration of a Pension Plan Amendment (Form 1.1).

Please follow these instructions in completing the standardized Wind Up Report for Defined Contribution Pension Plans. If there are any prior defined benefit accruals that are being held under a prior version of the plan, or if there are any defined benefit past service benefits for any members, the plan should be considered a defined benefit plan. The standardized wind up report is not applicable to plans with Group Annuity Benefits.

PLAN INFORMATION

1. **Registration Number** - enter the plan registration number.
2. **Name of Pension Plan** - enter the legal name of the pension plan.
3. **Employer/Plan Sponsor** - enter the legal name of the employer or plan sponsor.
4. **Pension Fund Trustee(s)** - enter the name of the organization(s) holding the pension fund assets.
5. **Collective Bargaining Agent** - enter the name of the Collective Bargaining Agent representing the members. If there is no Collective Bargaining Agent, check the N/A box.
6. **Contributory Plan/Non-Contributory Plan** - check the Contributory Plan box if the plan requires that members make contributions or check the Non-Contributory Plan box if members are not required to contribute.

WIND UP INFORMATION

7. **Type of Wind Up** - check the appropriate box for a full or partial wind up. For partial wind ups, please identify the partial wind up group.
8. **Effective date of Wind Up** - enter the effective date of the wind up.
9. **Effective date of Wind Up complies with s. 68(5)** - check yes if the effective date is in compliance with subsection 68(5) which states: *"The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members"*. If the effective date is not in compliance, check no and explain the reason.
10. **End of last period for which contributions were deducted** - enter the date of the end of the last period for which contributions were deducted from members' earnings (for contributory plans only).
11. **All employee and employer contributions remitted to the fund to the effective date of wind up** - if all employee and employer contributions, including any profit sharing allocation required under the plan, have been remitted, check yes. If all contributions have not been remitted, check no and explain.
12. **Date last notice given to members** - enter the final date the notice of the wind up was given to members.
13. **Notice content and distribution complies with ss. 68(2), 68(3) and 68(4)** - check yes if the notice content and distribution complies with the appropriate sections.

    For all wind ups, subsection 68(2) requires that: *"The administrator shall give written notice of proposal to wind up the pension plan to,*

    (a) the Superintendent
    (b) each member of the pension plan
    (c) each former member of the pension plan
    (d) each trade union that represents members of the pension plan
    (e) the advisory committee of the pension plan; and

(f) any other person entitled to a payment from the pension fund."

For partial wind ups, the notice distribution is also subject to subsection 68(3) which states: *"In the case of a proposal to wind up only part of a pension plan, the administrator is not required to give written notice of the proposal to members, former members, or other persons entitled to payment from the pension fund if they will not be affected by the proposed partial wind up."*

In addition, the content of the wind up notice must comply with subsection 68(4) which requires that *"The notice of proposal to wind up shall contain the information prescribed by the regulations."* (See section 28 of Regulation 909) If the notice is not in compliance with the relevant subsections, check no and provide an explanation.

14. **Date report sent to Collective Bargaining Agent** - enter the date a copy of the wind up report was sent to the Collective Bargaining Agent representing the members (if applicable). Approval of the wind up will not be granted until 30 days after the date the report was provided to the members' agent.
15. **Financial Information: Full Plan** - enter the Assets, Liabilities and Surplus (if any) of the entire plan as at the effective date of the wind up. Surplus is the excess, if any, of the value of the assets over the value of the liabilities as at the date of the wind up.
16. **Financial Information: Affected by Wind Up** - enter the Assets, Liabilities and Surplus (if any) related to the wind up, as at the effective date of the wind up. If there is a surplus, provide an explanation of how the surplus was created, the proposed treatment of the surplus and the allocation method.
17. **Legislative Requirements** - provide confirmation that full vesting and transfer rights have been provided to the members, and that benefits that are required to be locked-in, have been locked-in.

FILING REQUIREMENTS (FULL WIND UP ONLY)

18. **All outstanding Annual Information Returns have been filed** - check yes if all outstanding Annual Information Returns, including the final Annual Information Return for the period ending at the effective date of the wind up, have been filed. If all Annual information Returns have not been filed, check no and provide an explanation.
19. **All outstanding Financial Statements have been filed** - check yes if all outstanding Pension Fund Financial Statements, including financial statements for the period ending at the effective date of the wind up, have been filed. If all Financial Statements have not been filed, check no and provide an explanation.

EXPLANATIONS

Enter any information or explanation required by these instructions along with reference to the section number and any other information that may have a material impact on the wind up of the pension plan. Attach additional pages if necessary.

CERTIFICATION OF COMPLIANCE

The Certification of Compliance must be signed by a person described in section 15 of Regulation 909. The requirements of section 15 are as follows:

15(1) *The reports and certificates required under section 70 of the Act and under subsection 3(1) and sections 13 and 14 must be prepared by an actuary.*

15(2) *Despite subsection (1) reports and certificates in respect of,*

- *(a) a pension plan where all pension benefits are defined contribution benefits,*
- *(b) a fully insured pension plan, established prior to the 1st day of January, 1987 underwritten by a contract or contracts with an insurance company and that does not require any contributions to be made by employees; or*
- *(d) a pension plan underwritten by a contract or contracts issued under the Government Annuities Act (Canada),*

may be made by an accountant or a person authorized by an insurance company, a trust corporation or by the Annuities Branch of the Department of Labour of the Government of Canada, responsible for administering the pension plan or pension fund.

Financial Services
Commission
of Ontario

WIND UP REPORT FOR DEFINED CONTRIBUTION PENSION PLANS

Note: Section references are to the *Pension Benefits Act*, R.S.O. 1990 (the "Act"), unless otherwise indicated.

Plan Information

1. Registration Number: _____

2. Name of Pension Plan: _____

_____

3. Employer Plan Sponsor: _____

4. Pension Fund Trustee(s): _____

5. Collective Bargaining Agent: _____ ❑ N/A

6. ❑ Contributory Plan ❑ Non-Contributory Plan

Wind Up Information

7. Type of Wind Up: ❑ Full ❑ Partial _____
Identify Partial Wind Up Group (if applicable)

8. Effective date of Wind Up: ____/____/____
yyyy /mm / dd

9. Effective date of Wind Up complies with s. 68(5):
❑ Yes ❑ No

10. End of last period for which contributions were deducted: ____/____/____
yyyy /mm / dd

11. All employee and employer contributions remitted to the fund to the effective date of wind up: ❑ Yes ❑ No

12. Date last notice given to members: ____/____/____
yyyy /mm / dd

13. Notice content and distribution complies with ss. 68(2), 68(3) and 68(4) (including s. 28 of Regulation 909):
❑ Yes ❑ No

14. Date report sent to Collective Bargaining Agent: ❑ N/A ____/____/____
yyyy /mm / dd

15. Financial Information: Full Plan

Assets (Market Value) _____ Liabilities _____ Surplus _____

16. Financial Information: Portion affected by Wind Up

Assets (Market Value) _____ Liabilities _____ Surplus _____
[Please provide an explanation of how surplus was created, the proposed treatment of the surplus and the allocation method, if applicable]

17. Legislative Requirements - The following requirements have been applied:

❑ Full Vesting ❑ Transfer Rights ❑ Benefits locked-in

Filing requirements (Full Wind Up only)

18. All outstanding Annual Information Returns have been filed: ❑ Yes ❑ No

19. All outstanding Financial Statements have been filed: ❑ Yes ❑ No

Explanations (Include reference to section number):

_____

_____

_____

_____

Certification of Compliance

I certify that

a) I am a person described in section 15 of Regulation 909 made under the Act,

b) I am aware of, or have consulted with professionals who have advised me of the requirements of the pension legislation and Regulations of Ontario and of those other jurisdictions that apply to one or more members, former members or other beneficiaries of the Pension Plan (the "Pension Legislation").

c) I have reviewed this report,

d) the information contained in this wind up report is true and accurate and this report is complete,

e) the benefits and options have been determined in accordance with the terms of the Pension Plan and meet the minimum requirements of the Pension Legislation, and

f) to the best of my knowledge and belief, based on the information and advice provided to me, including that referred to herein, this report complies with the requirements of the Pension Legislation, except as noted in this report.

DATED this _____ day of _____, _____.
(day) (month) (year)

It is an offence under the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, for anyone to knowingly make a false document with the intent that it be acted on as genuine.

_____
Signature

_____
Name

_____
Name and Address of Organization

_____

_____

( ) ext.
Telephone Number

For Office Use Only

Pension Plans Branch - Staff Changes

There have been several additions to the staff of the Pension Plans Branch. Anna Vani, Peter Dunlop, Julina Lam, Leonard Peter, Hae-Jin Kim and Preethi Anthonypillai have all joined the Pension Plans Branch in the capacity of Pension Officer. Chantal Laurin has assumed the position of Pension Officer, Bi-lingual.

Contacts for Plan Specific Enquiries

Contact Name	Title	Phone Number	Allocation Alpha Range
Jaan Pringi	Sr. Pension Officer	416-226-7826	
Gulnar Chandani	Pension Officer	416-226-7770	#'s - Associated
Penny McIlraith	Pension Officer	416-226-7822	Associates - Bulk
Tim Thomson	Pension Officer	416-226-7829	Bull - Cem
Irene Mook-Sang	Pension Officer	416-226-7824	Cen - Cz
Kathy Carmosino	Pension Officer	416-226-7823	I - King
Preethi Anthonypillai	Pension Officer	416-226-7812	Kinh - Mark
Gino Marandola	Sr. Pension Officer	416-226-7820	
Calvin Andrews	Pension Officer	416-226-7768	Gko - H
Jeff Chuchman	Pension Officer	416-226-7807	D - Em
John Graham	Pension Officer	416-226-7774	Marl - Nes
Julina Lam	Pension Officer	416-226-7815	Net - Pep
Stanley Chan	Pension Officer	416-226-7806	Peq - Rob
Anna Vani	Pension Officer	416-226-7833	
Rosemin Jiwa Jutha	Sr. Pension Officer	416-226-7816	
Chantal Laurin	Pension Officer	416-226-7808	En - Gkn
Todd Hellstrom	Pension Officer	416-226-7814	Roc - Sons
Hae-Jin Kim	Pension Officer	416-226-7876	Sont - The Drop
David Allan	Pension Officer	416-226-7803	The Droq - Unicorp
Leonard Peter	Pension Officer	416-226-7855	Unicorp - Z
Peter Dunlop	Pension Officer	416-226-7860	

HEARINGS/COURT MATTERS

Enforcement Matters

Charges laid under the *Pension Benefits Act.*

i. The Raxlen Clinic

The Raxlen Clinic and three of the partners of The Raxlen Clinic were charged under the *Pension Benefits Act* with failing to file a financial statement for three separate years in respect of the Supplemental Pension Plan for Employees of The Raxlen Clinic. The Raxlen Clinic was also charged with failing to file an actuarial valuation for three separate years. The trial of The Raxlen Clinic and the three partners was scheduled for March 14, 2002. However, on July 3, 2001, the Superintendent of Financial Services brought a motion before the Ontario Court of Justice to withdraw all charges. The Court granted the motion and all charges were withdrawn.

ii. Chef's Catering Limited and its officer/director

Chef's Catering Limited and its sole officer and director in his personal capacity were charged with failing to remit employer contributions to the Pension Plan for Employees of Chef's Catering Limited.

On June 19, 2001, the Company was found guilty of failing to make the required contributions to the Plan. The Ontario Court of Justice ordered the Company to pay restitution in the amount of the outstanding contributions to the pension fund and, in addition, the Court sentenced the Company to a fine of $750.00.

Court Matters

i. Retirement Income Plan for Salaried Employees of Weavexx Corp. Registration No. 264663

On November 29, 1999, the Superior Court of Justice, Ontario Divisional Court, heard an application for judicial review brought by a group of former members of the Retirement Income Plan for Salaried Employees of Weavexx Corp. (the "Weavexx Plan"), who wanted to set aside the Superintendent of Pensions' August 1997 consent to a transfer of assets from the Weavexx Plan to the BTR Pension Plan for Canadian Employees (the "BTR Plan").

On May 30, 2000, the Court granted the application on the basis that the Superintendent of Pensions had exceeded his jurisdiction in failing to consider the issues of surplus, trust and a requested partial wind up of the Weavexx Plan.

On November 16, 2000, the Court issued an Addendum finding that the return of assets to the Weavexx Plan was not to be the subject of a Financial Services Tribunal hearing. The Court also found that any decision made by the Superintendent of Financial Services in respect of the requested partial wind up was to be referred to the Tribunal for a hearing. Finally, the Court awarded the applicants costs in the amount of $54,294.06.

Both the Superintendent of Financial Services and BTR Inc. sought leave to appeal these decisions. On February 26, 2001, the Ontario Court of Appeal granted leave, ordering that this appeal be heard together with the appeal in Colgate-Palmolive. No date has been set for the hearing of the appeal to date.

ii. Colgate-Palmolive Canada Inc. Pension Plan for Salaried and Non-Union Hourly Employees

On November 17, 2000, the Superior Court of Justice, Ontario Divisional Court, heard an application for judicial review brought by a group of former members of the Colgate-Palmolive Canada Inc. Pension Plan for Salaried and Non-Union Hourly Employees (the "Colgate Plan"), who wanted to set aside the Superintendent of Pensions' December 1995 consent to a transfer of assets from the Bristol-Myers Canada Inc. Retirement Income Plan (the "Bristol-Myers Plan") to the Colgate Plan. The applicants also wanted the Superintendent's August 1994 approval of a partial wind up report filed by the Colgate Plan set aside.

On November 29, 2000, the Court dismissed the application for judicial review. The Court found that the applicants, as members of the importing pension plan, had no right to object to the transfer; any right to object would have been exercised when the amendment to the Colgate Plan respecting the transfer was filed. The Court also found that there was no evidence to support a partial wind up involving additional former members of the Colgate Plan.

The applicants sought leave to appeal this decision. On February 26, 2001, the Ontario Court of Appeal granted leave, ordering that this appeal be heard together with the Weavexx appeal. No date has been set for the hearing of the appeal to date.

iii. Pension Plan for Employees of Monsanto Canada Inc., Registration Number 341230, FST File P0013-1998

On November 30, 1998, the Superintendent issued a Notice of Proposal to Refuse to Approve a Partial Wind Up Report filed by Monsanto in respect of a 1997 plant closure. The grounds for the refusal were: (a) the wind up report did not deal with the surplus distribution on partial wind up; (b) the payment of benefit enhancements on wind up to certain members constituted an inequitable distribution of surplus, and an indirect payment of surplus to the employer without following the statutory requirements for the payment of surplus to the employer; and (c) the wind up report provided that the funds relating to benefits of those in the partial wind up group were to remain in the pension plan's fund rather than being distributed by way of a purchase of annuities.

On December 31, 1998, Monsanto Canada Inc. ("Monsanto") requested a hearing before the Financial Services Tribunal in respect of the Notice of Proposal.

The hearing was held on January 10 - 12 and February 7 - 11, 2000. The Tribunal issued majority and minority Reasons dated April 14, 2000, which were published in Volume 9, Issue 2 of the Pension Bulletin. In the result, the Tribunal directed the Superintendent to approve the Partial Wind Up Report.

The decision of the Tribunal was appealed to the Superior Court of Justice, Ontario Divisional Court. On March 19, 2001, the Court allowed the appeal on the basis of its conclusion that the only reasonable interpretation of subsection 70(6) of the *Pension Benefits Act* was that a distribution of surplus is required on partial wind up. The Court also found that

the doctrine of legitimate expectations did not apply. The Court adopted the minority Reasons of the Tribunal and directed the Superintendent to carry out the Notice of Proposal to Refuse to Approve.

Monsanto, the Association of Canadian Pension Management (ACPM), and the National Trust Company sought leave to appeal the decision of the Divisional Court. On June 28, 2001, the Ontario Court of Appeal granted leave. No date has been set for the hearing of the appeal to date.

iv. Ontario Teachers' Pension Plan, Registration Number 345785, FST File P0060-1999

On June 16, 1999, the Ontario Teachers' Pension Plan Board filed a request for hearing in respect of the Superintendent's Notice of Proposal dated May 6, 1999, to order the Ontario Teachers' Pension Plan Board to comply with section 51 and subsection 48(13) of the *Pension Benefits Act* and pay to a deceased member's former spouse certain amounts or benefits under a domestic contract.

The hearing was held on March 27, 2000. Reasons for Decision were released on June 9, 2000, and were published in Volume 10, Issue 1 of the Pension Bulletin. The former spouse has appealed this decision to the Superior Court of Justice, Ontario Divisional Court. No date has been set for hearing of the appeal to date.

v. Retirement Plan of Dustbane Enterprises Limited, Registration Number 229419, FST File P0095-2000

On January 26, 2000, Dustbane Enterprises Limited filed a request for hearing in respect of the Superintendent's Notice of Proposal dated December 21, 1999, proposing to order Dustbane Enterprises Limited to pay into the pension fund for the Plan an amount equal to the total of all payments that under the *Pension Benefits Act*, the regulations and the Plan, were due or that had accrued and had not been paid into the pension fund as at June 1, 1990, plus interest to the date of payment. Such payment was to be made within sixty (60) days from the date of the Proposed Order.

The hearing was held on October 3 to 5 and October 16, 2000.

The Tribunal released its decision on February 15, 2001. The Reasons for Decision were published in Volume 10, Issue 1. The majority found that the plan was not a multi-employer pension plan and that Dustbane was therefore liable for the deficit. The dissent found that Dustbane was a multi-employer pension plan, that the distributors were therefore liable for the deficit, but that Dustbane should contribute to the deficit because it had kept the distributors in the dark and because much of the deficit was attributable to actuarial fees. The panel unanimously found that any delay could not excuse compliance with the *Pension Benefits Act*.

On March 16, 2001, Dustbane appealed this decision to the Superior Court of Justice, Ontario Divisional Court. No date has been set for hearing of the appeal to date.

LEGISLATIVE CHANGES / REGULATORY POLICIES

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION: Annual Information Return (AIR)

INDEX NO.: A500-400

TITLE: General Information Regarding Annual Information Returns and Fees
- PBA s. 20
- Regulation 909 s. 18

APPROVED BY: Superintendent of Financial Services

PUBLISHED: FSCO website (June 2001)

EFFECTIVE DATE: July 1, 2001

REPLACES: A500-105, A500-150, A500-151, A500-175, A500-200, A500-203, A500-205, A500-210, A500-225, A500-800, A500-900

This policy replaces A500-105, A500-150, A500-151, A500-175, A500-200, A500-203, A500-205, A500-210, A500-225, A500-800 and A500-900 as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

Requirement to File an Annual Information Return

Administrators of pension plans registered with the Financial Services Commission of Ontario ("FSCO") are required under section 20 of the PBA and section 8409 of the regulations made under the federal *Income Tax Act*, R.S.C. 1985 (5th supp.), c. 1 ("ITA") to file an Annual Information Return ("AIR"). To satisfy these requirements, plan administrators must file the AIR (Form 2) approved for use by the Superintendent of Financial Services ("Superintendent") within the deadlines specified below.

The AIR required to be filed was jointly developed by FSCO and the Canada Customs and Revenue Agency ("CCRA"). Three months after the fiscal year end of a plan, FSCO will automatically send the plan administrator an AIR containing pre-printed information specific to that plan. The administrator must complete the AIR (correcting any pre-printed information that is no longer accurate) and send the completed AIR to the Revenue Operations and Client Services Branch of the Ministry of Finance (which processes completed AIRs for FSCO and the CCRA) at the address set out in the AIR instructions.

Plan administrators must complete and return the AIR sent to them by FSCO that contains the

pre-printed plan information. Administrators are not permitted to file information using blank AIR forms or recreated versions of the AIR. Pre-printed AIRs are available no earlier than three months after the fiscal year end of a plan.

Plan administrators should not file completed AIRs with the CCRA. The AIR sent to the Revenue Operations and Client Services Branch of the Ministry of Finance satisfies both the PBA and ITA requirements for filing an AIR, and the CCRA will be provided with any information it requires from the AIR.

AIR Filing Fee

When filing an AIR, the plan administrator must pay the filing fee established by the Minister of Finance. The fee payable is calculated by the administrator when completing the AIR.

As of May 1, 2000, the fee for filing an AIR is $6.15 per plan member, with a minimum fee of $200 and a maximum fee of $50,000.

A cheque payable to the "Minister of Finance" for the AIR filing fee payable should be remitted to the Revenue Operations and Client Services Branch of the Ministry of Finance along with the completed AIR within the deadlines specified below.

Deadlines for Filing the Annual Information Return and Remitting the Filing Fee

Under section 18 of the Regulation, if a pension plan provides only defined contribution benefits, the plan administrator must file the AIR and remit the AIR filing fee no later than six months after the last day of the plan's fiscal year. For any other type of pension plan (such as any plan that provides defined benefits), the plan administrator must file the AIR and remit the AIR filing fee no later than nine months after the last day of the plan's fiscal year.

Late Filing of the Annual Information Return and Filing Fee

If a completed AIR is not received on or before the due date for its filing, it will be considered to be late. Where an AIR is filed late, a penalty fee of 10% in addition to the original AIR filing fee will become payable by the plan administrator as of the due date for filing the AIR.

A fixed rate of interest must also be paid on any late AIR filing fee from the day following the due date for filing the AIR to the date payment is actually received. The authority to charge interest on late fees is provided in subsection 10(1) of the *Financial Administration Act*, R.S.O. 1990, c. F12. Interest is charged against the AIR filing fee outstanding (exclusive of any penalty fee) and is calculated on a simple interest basis. For information about the interest rate that is applied, please contact FSCO at (416) 226-7776.

It is the plan administrator's responsibility to ensure that the completed AIR is filed by the filing due date. Failure to file the AIR and remit the AIR filing fee within the prescribed deadlines is a violation of the PBA and Regulation. Because of the importance of AIR filings in protecting plan members' benefits, FSCO will initiate vigorous enforcement, including prosecution, against those who do not comply voluntarily with these requirements.

Unreceived or Lost Annual Information Returns

Sometimes a plan administrator may not receive the pre-printed AIR that has been sent by FSCO. The most frequent reasons for unreceived or lost AIRs are a change in the address of the administrator or a change in the contact person for the administrator to whom the AIR

is addressed. FSCO should always be notified immediately by the administrator of these types of changes.

It is the administrator's responsibility to obtain a copy of the pre-printed AIR if one has not been received from FSCO. If the pre-printed AIR is not received within four months after the year end of the plan, or if the AIR has been lost, the administrator should contact FSCO at (416) 226-7776 to have a new pre-printed AIR sent to the administrator.

Regardless of when the administrator receives the pre-printed AIR, the completed AIR must be filed with the required filing fee by the deadline specified above, or it will be considered to be late and the penalty fee specified above, plus interest, will apply.

Unsigned Annual Information Returns

Sometimes FSCO receives AIRs which have not been signed, as required in the Certification section of the AIR. An AIR is not complete unless the Certification section has been signed.

If an AIR is received by FSCO which has not been signed, FSCO will retain a photocopy of the AIR received and will retain any filing fees remitted. The original copy of the AIR will be returned to the administrator for proper signing and the completed AIR must be returned to FSCO within 30 days; otherwise the AIR filing requirements will not have been satisfied.

Annual Information Returns Required on Full Plan Wind Up

Under subsection 29(4) of the Regulation, where a pension plan is being fully wound up, all AIRs up to the effective date of the wind up must be filed and payment of the applicable AIR filing fees must be received within six months of the effective date of the wind up.

Further Information

For further information about filing AIRs and remitting AIR filing fees, please contact FSCO at (416) 226-7776.

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION: Transfer Values

INDEX NO.: T800-401

TITLE: Recalculation of Transfer Values
- PBA ss. 42(1) and 73(2)
- Regulation 909 ss. 19(1), 20(1), 24(11.1), 24(12) and 29(2)

APPROVED BY: Superintendent of Financial Services

PUBLISHED: FSCO website (July 2001)

EFFECTIVE DATE: August 1, 2001

REPLACES: C125-500, T800-400

This policy replaces C125-500 and T800-400 as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

QUESTION

Since January 1, 1988, the *Pension Benefits Act* (the "PBA") has provided mandatory portability rights for individual pension plan members on termination of employment (now s. 42) and wind-up of a pension plan (now s. 73). In both circumstances, members are entitled to transfer the commuted value of their deferred pension to another pension fund, if the administrator of that plan agrees to accept the transfer, transfer the commuted value into a prescribed retirement savings arrangement or use the commuted value to purchase a life annuity.

When calculating a commuted value to be transferred on member termination as provided in subsection 42(1) of the PBA, subsection 19(1) of Regulation 909 (the "Regulation") requires that the commuted value shall not be less than the value determined in accordance with the Recommendations for the Computation of Transfer Values from Registered Pension Plans (the "Recommendations") issued by the Canadian Institute of Actuaries and effective on September 1, 1993.

When a person elects to exercise his or her entitlement under subsection 73(2) of the PBA on plan wind-up, subsection 29(2) of the Regulation provides that the commuted value of the pension benefit shall not be less than the value determined in accordance with the Recommendations. Subsection 29(2) of the Regulation became effective on March 3, 2000.

In both situations, some period of time may elapse between the date of computation and

the date of transfer. Section 4 of the Recommendations suggests that an actuary should establish the period for which the transfer value applies before recomputation is required. When some period of time has elapsed between the date of computation and the date of transfer, should transfer values calculated under subsections 19(1) and 29(2) of the Regulation be recomputed?

ANSWER

Before addressing this question, a distinction must be made between commuted values calculated for two separate purposes:

- when a calculation is made with respect to a mandatory portability right that becomes effective on an individual's termination date or the date of plan wind-up; and
- when a calculation is made with respect to any other portability right provided for under a pension plan which becomes effective after an individual's termination date.

It is FSCO's view that section 4 of the Recommendations does not apply to commuted values calculated in the first instance, when a member has a mandatory right to make a portability election within a prescribed period and has made the election within this period.

Prescribed Election Periods

Section 42 of the PBA stipulates that terminated members (individual members who terminate employment or cease to be members of the pension plan) who are not eligible to receive an immediate pension at date of termination have the right to elect a portability option. Subsection 73(2) of the PBA requires that a person entitled to a pension benefit on the wind-up of a pension plan, other than a person receiving a pension, is also entitled to a portability option. These rights, however, are time-limited.

The required time period for making a transfer election under section 42 of the PBA is prescribed under subsection 20(1) of the Regulation. In accordance with clause 41(1)(p) of the Regulation, the election period must be identified in the termination statement provided to the member. If an individual does not make an election within the prescribed period, the right to require the administrator to transfer the commuted value is extinguished (subsection 42(4) of the PBA). In this case, the default option is a deferred pension payable from the pension plan.

Of course, in circumstances where an administrator fails to provide a written statement within the period prescribed under subsection 41(2) of the Regulation, a terminated member's election period cannot be shortened as a consequence of late notice. Accordingly, the appropriate election period would commence at the date the statement is provided.

The required time period for making a transfer election under section 73(2) is prescribed in subsection 28(3) of the Regulation. In accordance with clause 28(2)(o) of the Regulation, the election period must be identified in the notice statement provided to the member. If an individual does not make an election within the prescribed period, the right to require the administrator to transfer the commuted value is extinguished (subsection 72(2) of the PBA). In this case, the default option is a pension payable from the pension plan.

Computation Dates

Subsections 19(1) and 29(2) of the Regulation specify the method of determining a commuted value for the purposes of section 42 and subsection 73(2) of the PBA. The commuted value of the pension benefit may not be less than the value determined in accordance with the Recommendations issued by the Canadian Institute of Actuaries and effective September 1, 1993.

According to Section 2(C) of the Recommendations, the transfer value should be computed as of the date the beneficiary becomes entitled to a deferred pension. For a transfer under subsection 42(1) of the PBA, this entitlement occurs on the date of termination. Where a person exercises his or her entitlement under subsection 73(2) of the PBA, subsection 29(2) of the Regulation requires the commuted value to be determined as of the date of the wind-up.

When a pension plan provides portability entitlements for terminating members who are entitled to an immediate pension, the computation date will be the date of termination. When a plan provides or is amended to provide portability entitlements for deferred vested members who previously either had no statutory or plan rights or did not make a transfer election within the prescribed period, the computation date will be the date the transfer value is determined in accordance with the plan provisions.

Interest Accrual

Transfer values calculated under subsections 19(1) and 29(2) of the Regulation, where a member has a mandatory right to make a portability election within a prescribed period, should not be recomputed when the transfer occurs after the computation date. These values, however, may be subject to interest adjustment as prescribed in subsections 24(11.1) and 24(12) of the Regulation.

When a commuted value is calculated for the purposes of section 42 of the PBA and time has elapsed between the date of termination and the date of payment, subsection 24(11.1) of the Regulation requires that interest at the rate used to calculate the commuted value at the date of termination be credited from the date of termination to the beginning of the month in which the payment is made.

When a plan administrator fails to provide a written termination statement within the prescribed period, no downward adjustment of the commuted value plus interest is permitted. At the date the transfer is made from the pension plan, the amount transferred with respect to an individual should not be less than the commuted value computed as at the individual's date of termination, plus interest credited at the rate and over the period indicated above.

In accordance with subsection 24(12) of the Regulation, if an individual makes an election under subsection 73(2) of the PBA to transfer a pension benefit, the commuted value of the pension benefit shall accumulate interest at the same rate used to calculate the commuted value of the pension benefit in the wind-up report. This interest shall accumulate from the effective date of the wind-up to the beginning of the month in which the payment is made.

SUPERINTENDENT OF FINANCIAL SERVICES

Appointment of Administrators - Section 71 of the PBA

1. Mackenzie Financial Corporation, as the Administrator of the Pension Plan for the Employees of Genicom Canada Inc. (Registration No. 924829) effective immediately.

DATED at Toronto, Ontario, this 14th day of March, 2001.

Notices of Proposal to Make an Order

IN THE MATTER OF *the Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **AM International Inc. Pension Plan (1979), Registration No. 0202044;**

TO: **PricewaterhouseCoopers Inc.**
c/o Aylesworth Thompson
Phelan O'Brien LLP
P.O. Box 15 Suite 3000
Royal Bank Plaza, South Tower
Toronto, ON
M5J 2J1

Attention: Peter R. Welsh
Applicant

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the *Act*, consenting to the payment, out of the AM International Inc. Pension Plan (1979), Registration No.0202044 (the "Plan"), to PricewaterhouseCoopers Inc. in the amount of $1,506,541 as at August 31, 2000 plus interest earnings to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. The Applicant is the Trustee in Bankruptcy of AM International Inc. (the Employer as defined in the Plan).
2. The Plan was wound up, effective October 17, 1996.
3. As at August 31, 2000, the surplus in the Plan was estimated at $5,478,331 (net of expenses).
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Applicant, and 89% of the active members and 89% of the former members and other persons entitled to payments, the surplus in the Plan as at August 31, 2000 plus interest earning to the date of payment, is to be distributed:
   a) 27.5% to the Employer; and
   b) 72.5% to the beneficiaries of the Plan as defined in the Surplus Sharing Agreement.
6. The Applicant has applied, pursuant to section 78 of the *Act*, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 27.5% of the surplus as at August 31, 2000 plus investment earnings to the date of payment.
7. The application appears to comply with section 78 and subsection 79(3) of the *Act* and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the

Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 8th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services

cc: Marcel Theroux, William M. Mercer Limited
cc: Susan Rowland, Andrew Hatnay, Koskie Minsky
cc: Brendan Murphy

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, respecting the **Registered Pension Plan for Salaried (Non-Union) Employees of JPE Canada Inc., Registration No. 1038330;**

TO: **Clarica Life Insurance Company**
227 King Street South
P.O. Box 1601
Waterloo, ON
N2J 4C5

Attention: Terri-Lynn Moser
Finals Associate
Administrator

AND TO: **JPE Canada Inc.**
775 Technology Drive
P.O. Box 660
Peterborough, ON
K9J 6Z8

Attention: D.L. Bacon
Secretary
Employer

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that the Registered Pension Plan for Salaried (Non-Union) Employees of JPE Canada Inc., Registration No. 1038330, be wound up in whole effective February 28, 1999.

I propose to make this order pursuant to subsection 69(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*").

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act (Canada)*, R.S. 1985, c. B-3, as amended.
3. A significant number of members of the Plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons:

Grant Thornton Limited
Royal Bank Plaza
200 Bay Street, 19th Floor
P.O. Box 55
Toronto, ON
M5J 2P9

Attention: Allan Rutman
Interim Receiver and Trustee in Bankruptcy for JPE Canada Inc.

DATED at Toronto, Ontario, this 20th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services

'NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Retirement Plan for the Employees of Gas Technology Canada, Registration No. 1040336;**

TO: **Gas Technology Canada**
243 Consumers Road, Suite 1200
North York, ON
M2J 5E2

Attention: Dr. Inge Hansson
President
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the *Act*, consenting to the payment, out of the Retirement Plan for the Employees of Gas Technology Canada, Registration No.1040336 (the "Plan"), to Gas Technology Canada in the amount of approximately $6,300 as at August 21, 1998, plus investment earnings thereon to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Gas Technology Canada is the employer as defined in the Plan (the "Employer").
2. The Plan was wound up, effective August 21, 1998.
3. As at August 21, 1998, the surplus in the Plan was estimated at $29,200.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer, and 100% of the active members and other members (as defined in the application) and 100% of the former members and other persons entitled to payments, the surplus in the Plan at the date of payment, after deduction of wind up expenses, is to be distributed, approximately:
   a) 25% to the Employer; and
   b) 75% to the beneficiaries of the Plan as defined in the Surplus Distribution Agreement.
6. The Employer has applied, pursuant to section 78 of the *Act*, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of approximately $6,300 as at August 21, 1998, plus investment earnings thereon to the date of payment. This amount represents the surplus remaining after the distribution of 78% of the surplus to the members and former members.
7. The application appears to comply with section 78 and subsection 79(3) of the *Act* and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 19th day of March, 2000.
Dina Palozzi
Superintendent of Financial Services

cc: Mr. Robert R. Coyle, The Standard Life Assurance Company

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Dibrell Brothers of Canada Pension Plan for Local 341-T Employees, Registration No. C-18014;**

TO: **DIMON Incorporated**
512 Bridge Street
Danville, Virginia
24543-0681
U.S.A.

Attention: John O. Hunnicutt III
Vice President, Administration
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(4) of the *Act*, consenting to the payment, out of the Dibrell Brothers of Canada Ltd. Pension Plan for Local 341-T Employees, Registration No.C-18014 (the "Plan"), to DIMON Incorporated in the amount of $42,000 plus interest at the fund rate of return since the dates of payment of the Plan's wind up expenses.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. DIMON Incorporated is the successor to Dibrell Brothers of Canada Ltd., the employer as defined in the Plan (the "Employer").
2. The Plan was wound up, effective December 31, 1988.
3. Expenses of the wind up of the Plan amounting to $42,000 were paid for directly by the Employer.
4. The Plan was in surplus at its wind up. The affected employees received their basic benefits and certain benefit enhancements in 1991/92. As of August 31, 1999, $64,000 remained in the Plan. The Employer proposes to distribute the assets remaining, after it receives reimbursement for its expenses, to members and former members of the Plan.
5. The Plan provides that plan expenses are to be paid from the plan funds.
6. The Employer asserts that the wind up expenses were reasonable and properly incurred.
7. The Employer has applied, pursuant to subsection 78(4) of the *Act* for consent of the Superintendent of Financial Services to the payment of $42,000 (after adding investment earnings).
8. The application appears to comply with subsection 78(4) of the *Act*.
9. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 17th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

cc: Priscilla Healy, Towers Perrin

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Dibrell Dibrell Brothers of Canada Pension Plan for Non-Union Employees, Registration No. C-18015;**

TO: **DIMON Incorporated**
512 Bridge Street
Danville, Virginia
24543-0681
U.S.A.

Attention: John O. Hunnicutt III
Vice President, Administration
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(4) of the *Act*, consenting to the payment, out of the Dibrell Brothers of Canada Ltd. Pension Plan for Non-Union Employees, Registration No.C-18015 (the "Plan"), to DIMON Incorporated in the amount of $51,000 plus interest at the fund rate of return since the dates of payment of the Plan's wind up expenses.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. DIMON Incorporated is the successor to Dibrell Brothers of Canada Ltd., the employer as defined in the Plan (the "Employer").
2. The Plan was wound up, effective June 30, 1989.
3. Expenses of the wind up of the Plan amounting to $39,000, and additional expenses of the wind up of the fund estimated at $12,000 have been and will be incurred. Most have been paid for directly by the Employer.
4. The Plan was in surplus at its wind up. The affected employees received their basic benefits and certain benefit enhancements in 1991/92. As of August 31, 1999, $134,000 remained in the Plan. The Employer proposes to distribute the assets remaining, after it receives reimbursement for its expenses, to members and former members of the Plan.
5. The Plan provides that plan expenses are to be paid from the plan funds.
6. The Employer asserts that the wind up expenses were reasonable and properly incurred.
7. The Employer has applied, pursuant to subsection 78(4) of the *Act* for consent of the Superintendent of Financial Services to the payment of $51,000 (after adding investment earnings).
8. The application appears to comply with subsection 78(4) of the *Act*.
9. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 17th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

cc: Priscilla Healy, Towers Perrin

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF the Actuarial Report on the Partial Wind Up submitted by Cooper Industries (Canada) Inc. to the Superintendent of Financial Services respecting the **Retirement Plan for Salaried Employees of Cooper Canada - Plan A, Registration No. 240622;**

TO: **Cooper Industries (Canada) Incorporated**
P.O. Box 4446
Houston, Texas,
U.S.A. 77210

Attention: Mr. Stephen O'Neill
Director, Employee Benefits
Employer and Administrator of the Plan

Notice of Proposal to Refuse to Approve Partial Wind up Report and to Make an Order under Section 87 of The *Act*

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Actuarial Report (the "Report") prepared in November 1999, in relation to the partial wind up of the Retirement Plan for Salaried Employees of Cooper Canada - Plan A, Registration No. 240622 (the "Plan") as at March 30, 1992.

I FURTHER PROPOSE, pursuant to section 87 of the *Act*, **TO MAKE AN ORDER** requiring the Employer to refrain from using and to preserve for distribution that portion of the surplus assets in the Plan, plus any investment earnings thereon, attributable to the Port Hope location.

I PROPOSE TO REFUSE TO APPROVE THE REPORT FOR THE FOLLOWING REASONS:

1. The Report does not meet the requirements of the *Act* and the Regulations and does not protect the interests of the members or former members of the Plan.
2. Cooper Industries (Canada) Inc. ("Cooper") went through a corporate reorganization during 1992, including the closure of its manufacturing facility in Port Hope, Ontario, effective March 30, 1992.
3. Cooper declared a full wind up of its Pension Plan for Bargaining and Non Bargaining Employees employed at the Port Hope facility, but refused to declare a partial wind up of the Plan (for Salaried Employees) in respect of the members affected by the reorganization and closure at Port Hope.
4. On July 2, 1998, the Superintendent of Financial Services (the "Superintendent") issued a Notice of Proposal to make an Order requiring the partial wind up of the Plan. After initially opposing the Order, Cooper withdrew its objection on March 3, 1999, and agreed to partially wind up the Plan, if ordered to do so by the Superintendent.
5. On June 22, 1999, the Superintendent issued an Order requiring Cooper to partially wind up the Plan.
6. On November 10, 1999, Cooper filed the Report for partial wind up of the Plan as at March 30, 1992.

7. The Report reflects the fact that the Plan was formerly a contributory defined benefit plan. In September 1989 the Plan was restated and converted from a defined benefit to a defined contribution plan. In 1989, at the time of the conversion, the Plan had a surplus.
8. Cooper set aside the Plan's surplus assets in a "Separate Account" which was dealt with and invested separately from the members' individual defined contribution accounts. Although financial asset information was shown separately for the Port Hope location until 1989, starting in June 1989, all surplus assets were commingled in the Separate Account.
9. Since the Canada Customs and Revenue Agency (formerly Revenue Canada) rules prevent the accumulation of surplus in defined contribution plans, Cooper applied the surplus in the Separate Account towards current service contributions for its continuing membership.
10. At the time of the partial wind up, 39 members in Port Hope were participating in the Plan ("the affected members"). Eighteen of the affected members had joined the Plan after September 1, 1989 and so had accrued benefits only on a defined contribution basis.
11. According to the Report, on September 1, 1989, the surplus assets in the Separate Account were valued at $9,897,306. As of the wind up date of March 30, 1992, the Report showed the surplus assets attributable to the Port Hope location were worth $1,094,614. This value is based on estimates calculated by prorating total Plan assets to the liabilities attributable, at that time, to the Port Hope members and former members.
12. Report attributes $458,683 of the Port Hope location surplus assets to the affected member of the Plan who joined before September 1989. The report fails to attribute the remainder of the Port Hope surplus assets.
13. The Report fails to demonstrate that Cooper has any interest in or entitlement to the assets in the Separate Account or to the Port Hope location surplus assets.
14. The Report indicates (at p. 6) that Cooper "intends to retain the Separate Account Assets in the Plan's fund as at March 30, 1992 and to continue allocating the monies toward future current service contributions for its continuing membership."
15. The Report fails to provide for the distribution of the Port Hope location surplus assets, as required by the *Act*. Partial wind up is defined under the *Act* as "the termination of part of a pension plan and the distribution of the assets related to that part of the pension plan."
16. Section 70(6) of the *Act* provides that "on the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits on the full wind up of a pension plan on the effective date of the partial wind up."
17. Subsection 70(5) of the *Act* states that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the *Act* and the regulations or that does not protect the interests of the members and former members of the pension plan.

18. Such further and other reasons as may come to my attention.

I PROPOSE TO MAKE AN ORDER under Section 87 of the *Act*, requiring the Employer to refrain from using and to preserve for distribution that portion of the surplus assets in the Plan, plus any investment earnings thereon, attributable to the Port Hope location **FOR THE FOLLOWING REASONS:**

1. The Report states that Cooper is and has been since 1989 utilizing the surplus assets in the Separate Account for ongoing current service contributions. As indicated above, the Report also states that Cooper plans to continue to retain all the surplus in its Separate Account and to allocate it to ongoing current service contributions.
2. Cooper has failed to separately account for and preserve for distribution on wind up the surplus assets attributable to the Port Hope location.
3. Section 70(6) of the *Act* provides that "on the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits on the full wind up of a pension plan on the effective date of the partial wind up."
4. Section 87(1)(a) of the *Act* provides that the Superintendent may make an order if the Superintendent is of the opinion, upon reasonable or probable grounds, that the pension plan or fund is not being administered in accordance with the *Act* or regulations.
5. Section 87(1)(c) of the *Act* provides that the Superintendent may make an order if the Superintendent is of the opinion, upon reasonable or probable grounds, that administrator of the pension plan or the employer is contravening a requirement of the *Act* or the regulations.
6. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *Act* if, within thirty (30) days after the Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I WILL MAKE THE ORDERS PROPOSED HEREIN.

DATED at Toronto, Ontario, this 8th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services

21161

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order Requiring the Wind Up of the **Pension Plan for the Employees of Dyment Limited, Registration No. 0242735;**

AND IN THE MATTER OF the Actuarial Report on the Partial Wind Up submitted by Dyment Limited to the Superintendent of Financial Services respecting the **Pension Plan for the Employees of Dyment Limited, Registration No. 0242735 Registration No. 240622;**

TO: **Dyment Limited**
Suite 400, 1235 Bay Street
Toronto, ON
M5R 3K4

Attention: Elmer A. Campbell
Controller
Employer and Administrator of the Pension Plan for the Employees of Dyment Limited

Notice of Proposal to Make an Order

I PROPOSE TO ORDER, pursuant to subsection 69(1) of the *Act*, that the Pension Plan for the Employees of Dyment Limited, Registration Number 0242735 (the "Plan") be wound up in full effective August 23, 1996.

I FURTHER PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Actuarial Report (the "Report") prepared in April 1997, in relation to the partial wind up of the Plan as at August 23, 1996.

I PROPOSE TO MAKE THE ORDER REQUIRING THE PLAN TO BE WOUND UP IN FULL FOR THE FOLLOWING REASONS:

1. Dyment Limited ("Dyment"), is the employer and the administrator of the Plan, which is a contributory defined benefit plan.
2. On April 9, 1996, Dyment sold its "Display Division" to Chesapeake Display and Packaging (Canada) Limited ("Chesapeake"). As a result of this sale, 76 then-active members of the Plan became employees of Chesapeake, and their membership in the Plan was terminated.
3. The employees transferred to Chesapeake became members of Chesapeake's plan and Chesapeake assumed responsibility for their pension benefits. That portion of the assets in the Plan (exclusive of surplus) attributable to the 76 former members was transferred to the Chesapeake plan.
4. Dyment sold its remaining operations to DDS Dyment Distribution Services Ltd. ("DDS") effective August 23, 1996. All 56 of the remaining active Plan members became employees of DDS. Since DDS had no pension plan, Dyment proposed to partially wind up the Plan in respect of the members transferred to DDS.
5. As of August 23, 1996, there were no remaining active members in the Plan and Dyment was no longer required to make contributions to the pension fund.
6. Under paragraph 69(1)(a) of the *Act* the Superintendent of Financial Services (the "Superintendent") may require the wind up of a pension plan if there is a cessation or suspension of employer contributions.

7. Under paragraph 69(1)(d) of the *Act* the Superintendent may require the wind up of a pension plan where a significant number of the members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.
8. Under paragraph 69(1)(e) of the *Act* the Superintendent may require the wind up of a pension plan where all or a significant portion of the business carried on by an employer at a specific location is discontinued.
9. Under paragraph 69(1)(f) of the *Act* the Superintendent may require the wind up of a pension plan where all or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person.
10. Such further and other reasons as may come to my attention.

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Actuarial Report (the "Report") prepared in April 1997, in relation to the partial wind up of the Plan as at August 23, 1996, **FOR THE FOLLOWING REASONS:**

1. The Report does not meet the requirements of the *Act* and the Regulations and does not protect the interests of the members or former members of the Plan.
2. In April 1997, Dyment filed the Report for partial wind up of the plan as at August 23, 1996.
3. The Report reflects the fact that as of August 23, 1996, the Plan had surplus assets estimated at $2,236,222.
4. The Report fails to provide for the distribution of the surplus assets, related to the partial wind up group, as required by the *Act*. Partial wind up is defined under the *Act* as "the termination of part of a pension plan and the distribution of the assets related to that part of the pension plan."
5. Section 70(6) of the *Act* provides that "on the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits on the full wind up of a pension plan on the effective date of the partial wind up."
6. Subsection 70(5) of the *Act* states that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the *Act* and the regulations or that does not protect the interests of the members and former members of the pension plan.
7. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *Act* if, within thirty (30) days after the Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I WILL MAKE THE ORDERS PROPOSED HEREIN.

DATED at Toronto, Ontario, this 19th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services

21745

[1]NOTE – PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under section 69 of the *Act* respecting the **Goodyear Contributory Pension Plan, Registration No. 0337766** (the "Plan");

TO: **Goodyear Canada Inc.**
450 Kipling Avenue
Etobicoke, ON
M8Z 5E1

Attention: Mr. Dan Maraldo
Manager, Benefit Administration
Employer and Administrator

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that the Plan be wound up in part in relation to those members and former members of the Plan who ceased to be employed by Goodyear Canada Inc. (the "Employer") between December 1, 1995, and January 10, 1998, or the last date of employment of a Plan member employed by the Employer at an Ontario location that was closed or divested during that period, whichever is later, as a result of the discontinuance of all or a significant portion of the business carried on by the Employer at a number of specific locations.

I PROPOSE to make this order pursuant to paragraphs 69(1)(e) and (f) of the *Act*.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Goodyear Canada Inc. is the employer and administrator of the Plan.
2. All or a significant portion of the business carried on by the Employer at a number of specific locations was discontinued between December 1, 1995, and January 10, 1998, under paragraph 69(1)(e) of the *Act*.
3. Part of the Employer's business or part of the assets of the Employer's business were sold, assigned or otherwise disposed of and the person or persons who acquired the business or assets or a part thereof have not provided a pension plan for the former members of the Employer's plan who became employees of the person or persons who acquired the business or assets or a part thereof, under paragraph 69(1)(f) of the *Act*.
4. Such further and other reasons that may come to my attention.

YOU ARE ENTITLED to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED, pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons: all members and former members of the Plan who were employed by the Employer and who ceased to be employed by the Employer between December 1, 1995 and January 10, 1998 or the last date of employment of a Plan member employed at an Ontario location that was closed or divested during that period, whichever is later, as a result of the discontinuance of all or a significant portion of the business carried on by the Employer at a number of specific locations.

DATED at Toronto, Ontario, this 24th day of April, 2001.
Dina Palozzi
Superintendent of Financial Services

NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF an application for consent of the Superintendent of Financial Services to the transfer of assets under section 81 of the *Act* from the **Crown Cork & Seal Canada Inc. Pension Plan for Salaried Employees, Registration No. 0474205** and The **Pension Plan for Clerical Employees of Crown Cork & Seal Canada Inc., Registration Number 0595371** into the **Crown Cork & Seal Canada Inc. Pension Plan for Employees, Registration No. 0338491;**

TO: **Crown Cork & Seal Canada Incorporated**
7900 Keele Street
Concord, ON
L4K 2A3

Attention: A.J. Packman
Director Compensation and Employees Benefits
Employer and Administrator of the Crown Cork & Seal Canada Inc. Pension Plan for Employees, the Crown Cork & Seal Canada Inc. Pension Plan for Salaried Employees and the Pension Plan for Clerical Employees of Crown Cork & Seal Canada Inc.

Notice of Proposal

I PROPOSE TO REFUSE TO CONSENT to a transfer of assets proposed by Crown Cork & Seal Canada Inc. from the Crown Cork & Seal Canada Inc. Pension Plan for Salaried Employees, Registration No. 0474205 ("Salaried Plan") and the Pension Plan for Clerical Employees of Crown Cork & Seal Canada Inc., Registration No. 0595371 ("Clerical Plan") into the Crown Cork & Seal Canada Inc. Pension Plan for Employees, Registration No. 338491 ("Employees' Plan").

I PROPOSE TO REFUSE TO CONSENT FOR THE FOLLOWING REASONS:

1. Crown Cork & Seal Canada Inc. ("CCS") is the employer and administrator of the Salaried Plan, the Clerical Plan and the Employees' Plan.
2. In December 1997, CCS applied for a consent to the transfer of assets from the Salaried Plan and the Clerical Plan to the Employees' Plan, effective January 1, 1997. This would result in the merger of the three plans.
3. Appendix A to the actuarial report submitted in support of the application state that at the effective date of the merger, the Employees' Plan had 232 active members, 107 former members, a solvency surplus of $3,845,000 and a transfer ratio of 1.28.
4. Appendix B to the actuarial report submitted in support of the application state that at the effective date of the merger, the Salaried Plan had 113 active members, 224 former members, a solvency deficit of $8,687,000 and a transfer ratio of .82.
5. Appendix C to the actuarial report submitted in support of the application state that at the effective date of the merger, the Clerical Plan had six active members, nine former members, a solvency surplus of $41,000 and a transfer ratio of 1.14.

6. The actuarial report submitted in support of the merger application state that immediately after the merger, the merged plan will have a solvency deficit of $4,801,000 and a transfer ratio of 0.92.
7. The asset transfer does not protect the pension benefits and other benefits of the members and former members of the Employees' Plan under subsection 81(5) of the *Act*. Since the transfer ratio of the merged (importing) plan is less than the highest transfer ratio of one of the exporting plans, the Employees' Plan, and is less than 1.0, the benefits of the plan members are not protected.
8. The asset transfer does not protect the pension benefits and other benefits of the members and former members of the Clerical Plan under subsection 81(5) of the *Act*. Since the transfer ratio of the merged (importing) plan is less than the highest transfer ratio of one of the exporting plans, the Clerical Plan, and is less than 1.0, the benefits of the plan members are not protected.
9. The asset transfer does not satisfy the requirements of section 11 of the Financial Services Commission of Ontario's Policy Bulletin A700-251. The Bulletin, at section 11, provides that the Superintendent may decide that benefits are not protected where:
   (a) the transfer ratio of the importing plan is less than the highest transfer ratio of the exporting plans, and is less than 1.0; or
   (b) the report for the importing plan indicates that special payments are required, and any scheduled amount of monthly amortization of payment for the importing plan is less than the sum of the corresponding scheduled amounts of monthly special payments required for the exporting plans.
10. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 29th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF of the *Pension Benefits Act*, R.S.O. 1990, c. P.8., as amended (the "*Act*");

AND IN THE MATTER OF a Partial Wind Up Report submitted by CBS Canada Inc. to the Superintendent of Financial Services respecting the **Westinghouse Canada Inc. Pension Plan, Registration No. 348409** (the "Plan");

TO: **CBS Canada Inc.**
11 Stanwix Street
Pittsburgh, Pennsylvania
15222-1384
USA

Attention: Julie Forsythe
Administrator and Employer

Notice of Proposal to Refuse to Approve a Partial Wind Up Report

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Partial Wind Up Report (the "Report"), prepared by William M. Mercer Limited for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409 (the "Plan"), as at August 11, 1994, in respect of the business carried on by Westinghouse at its Burlington, Ontario plant.

I PROPOSE TO REFUSE TO APPROVE THE REPORT FOR THE FOLLOWING REASONS:

1. CBS Canada Inc., formerly Westinghouse Canada Inc. ("Westinghouse"), is the employer and administrator of the Plan.
2. In May 1999, the Superintendent ordered the Plan partially wound up effective August 11, 1994, in respect of the business carried on at the employer's Burlington, Ontario plant.
3. Westinghouse filed the Report in March 2000.
4. Section 6.04 of the Plan provides for early retirement benefits at the request of plan participants ("employee request early retirement benefits"), at any time after participants have attained 55 years of age.
5. Section 6.05 of the Plan provides for early retirement benefits at the request of the employer, ("employer request early retirement benefits") at any time after participants have attained 58 years of age. These benefits are more financially advantageous to retired employees than section 6.04 benefits.
6. Section 7.04 of the Plan provides for a "bridge benefit" to members retiring before they become eligible to receive an Old Age Security pension. Such benefits are available to any member who retires early at the request of the employer, but are only available to members who retire early at their own request after attaining 62 years of age.
7. Section 74 of the *Act* provides certain benefits to plan members whose combination of age and continuous employment or membership in the plan equals at least 55, upon the wind up of a pension plan. These members may receive a pension in accordance with the terms of the plan, and where the consent of the employer is a requirement for eligibility for an ancillary benefit, under subsection 74(7) the employer is deemed to have given that consent.
8. Pursuant to section 74 of the *Act*, and pursuant to the terms of the Plan, those members of the Plan whose combination of age plus years of continuous employment or membership in the Plan equalled at least 55 at the effective date of the wind up have

a right to receive a pension in accordance with sections 6.05 ("employer request early retirement benefits") and 7.04 ("bridge benefits") of the Plan, beginning at the date they would have reached age 55 with 10 years of service had the Plan not been wound up.

9. The Report provides benefits under section 6.05 ("employer request early retirement benefits") and 7.04 ("bridge benefits") to those members who were at least 55 years and had at least 10 years of service at the date of wind up. The Report fails to provide these benefits to other members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
10. The Report provides only section 6.04 ("employee request early retirement benefits") to members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
11. The Report identifies $79,426 in surplus assets related to the partial wind up group, as at April 30, 1995. The surplus calculated as of January 1, 2000, amounts to $113,327.
12. The Report indicates (at p. 19) that after the settlement of basic benefits has been completed, any excess assets shall be retained in the Plan.
13. The Report fails to provide for the distribution of the surplus assets related to the partial wind up group, as required by the *Act*. Partial wind up is defined under the *Act* as "the termination of part of a pension plan and the distribution of the assets related to that part of the pension plan."
14. Subsection 70(6) of the *Act* states that "on the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits on the full wind up of a pension plan on the effective date of the partial wind up."
15. As a result, the Report does not meet the requirements of the *Act* and regulations and does not protect the interests of the members and former members of the pension plan.
16. Subsection 70(5) of the *Act* states that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the *Act* and the regulations or that does not protect the interests of the members and former members of the pension plan.
17. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal") if you deliver to the Tribunal written notice that you require a hearing, within thirty (30) days after this Notice of Proposal to Refuse to Consent is served[1] on you.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 9th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

'NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF of the *Pension Benefits Act*, R.S.O. 1990, c. P.8., as amended (the "*Act*");

AND IN THE MATTER OF a Partial Wind Up Report submitted by CBS Canada Inc. to the Superintendent of Financial Services respecting the **Westinghouse Canada Inc. Pension Plan, Registration No. 348409** (the "Plan");

TO: **CBS Canada Inc.**
11 Stanwix Street
Pittsburgh, Pennsylvania
15222-1384
USA

Attention: Julie Forsythe
Administrator and Employer

Notice of Proposal to Refuse to Approve a Partial Wind Up Report

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Partial Wind Up Report (the "Report"), prepared by William M. Mercer Limited for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409 (the "Plan"), as at June 30, 1991, in respect of the business carried on by Westinghouse at its Beach Road plant in Hamilton, Ontario.

I PROPOSE TO REFUSE TO APPROVE THE REPORT FOR THE FOLLOWING REASONS:

1. CBS Canada Inc., formerly Westinghouse Canada Inc. ("Westinghouse"), is the employer and administrator of the Plan.
2. In May 1999, the Superintendent ordered the Plan partially wound up effective June 30, 1991 in respect of the business carried on at the employer's Beach Road plant in Hamilton, Ontario.
3. Westinghouse filed the Report in March 2000.
4. Section 6.04 of the Plan provides for early retirement benefits at the request of plan participants ("employee request early retirement benefits"), at any time after participants have attained 55 years of age.
5. Section 6.05 of the Plan provides for early retirement benefits at the request of the employer, ("employer request early retirement benefits") at any time after participants have attained 58 years of age. These benefits are more financially advantageous to retired employees than are section 6.04 benefits.
6. Section 7.04 of the Plan provides for a "bridge benefit" to members retiring before they become eligible to receive an Old Age Security pension. Such benefits are available to any member who retires early at the request of the employer, but are only available to members who retire early at their own request after attaining 62 years of age.
7. Section 74 of the *Act* provides certain benefits to plan members whose combination of age and continuous employment or membership in the plan equals at least 55, upon the wind up of a pension plan. These members may receive a pension in accordance with the terms of the plan, and where the consent of the employer is a requirement for eligibility for an ancillary benefit, under subsection 74(7) the employer is deemed to have given that consent.
8. Pursuant to section 74 of the *Act*, and pursuant to the terms of the Plan, those members of the Plan whose combination of age plus years of continuous employment or membership in the Plan equalled at least

55 at the effective date of the wind up have a right to receive a pension in accordance with sections 6.05 ("employer request early retirement benefits") and 7.04 ("bridge benefits") of the Plan, beginning at the date they would have reached age 55 with 10 years of service had the Plan not been wound up.

9. The Report provides benefits under section 6.05 ("employer request early retirement benefits") and 7.04 ("bridge benefits") to those members who were at least 55 years and had at least 10 years of service at the date of wind up. The Report fails to provide these benefits to other members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
10. The Report provides only section 6.04 ("early retirement employee request benefits") to members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
11. The Report identifies $38,969 in surplus assets related to the partial wind up group, as of December 31, 1992. The surplus calculated as of January 1, 2000, amounts to $1,007,911.
12. The Report indicates (at p. 21) that after the settlement of basic benefits has been completed, any excess assets shall be retained in the Plan.
13. The Report fails to provide for the distribution of the surplus assets related to the partial wind up group, as required by the *Act*. Partial wind up is defined under the *Act* as "the termination of part of a pension plan and the distribution of the assets related to that part of the pension plan."
14. Subsection 70(6) of the *Act* states that "on the partial wind up of a pension plan, members former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits on the full wind up of a pension plan on the effective date of the partial wind up."
15. As a result, the Report does not meet the requirements of the *Act* and regulations and does not protect the interests of the members and former members of the pension plan.
16. Subsection 70(5) of the *Act* states that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the *Act* and the regulations or that does not protect the interests of the members and former members of the pension plan.
17. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal"), if you deliver to the Tribunal written notice that you require a hearing, within thirty (30) days after this Notice of Proposal to Refuse to Consent is served[1] on you.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 9th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF of the *Pension Benefits Act*, R.S.O. 1990, c. P.8., as amended (the "*Act*");

AND IN THE MATTER OF a Partial Wind Up Report submitted by CBS Canada Inc. to the Superintendent of Financial Services respecting the **Westinghouse Canada Inc. Pension Plan, Registration No. 348409** (the "Plan");

TO: **CBS Canada Inc.**
11 Stanwix Street
Pittsburgh, Pennsylvania
15222-1384
USA

Attention: Julie Forsythe
Administrator and Employer

Notice of Proposal to Refuse to Approve a Partial Wind Up Report

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Partial Wind Up Report (the "Report"), prepared by William M. Mercer Limited for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409 (the "Plan"), as at April 30, 1995, in respect of the business carried on by Westinghouse at its Motors Division plant.

I PROPOSE TO REFUSE TO APPROVE THE REPORT FOR THE FOLLOWING REASONS:

1. CBS Canada Co., formerly Westinghouse Canada Inc. ("Westinghouse"), is the employer and administrator of the Plan.
2. The Plan was partially wound up as a result of the plant closedown of the Westinghouse Motors Division in April 1995.
3. Westinghouse filed the Report in August 1996.
4. Section 6.04 of the Plan provides for early retirement benefits at the request of plan participants ("employee request early retirement benefits"), at any time after participants have attained 55 years of age.
5. Section 6.05 of the Plan provides for early retirement benefits at the request of the employer, ("employer request early retirement benefits") at any time after participants have attained 58 years of age. These benefits are more financially advantageous to retired employees than are section 6.04 benefits.
6. Section 7.04 of the Plan provides for a "bridge benefit" to members retiring before they become eligible to receive an Old Age Security pension. Such benefits are available to any member who retires early at the request of the employer, but are only available to members who retire early at their own request after attaining 62 years of age.
7. Section 74 of the *Act* provides certain benefits to plan members whose combination of age and continuous employment or membership in the plan equals at least 55, upon the wind up of a pension plan. These members may receive a pension in accordance with the terms of the plan, and where the consent of the employer is a requirement for eligibility for an ancillary benefit, under subsection 74(7) the employer is deemed to have given that consent.
8. Pursuant to section 74 of the *Act*, and pursuant to the terms of the Plan, those members of the Plan whose combination of age plus years of continuous employment or membership in the Plan equalled at least 55 at the effective date of the wind up have a right to receive a pension in accordance with sections 6.05 ("employer request early

retirement benefits") and 7.04 ("bridge benefits") of the Plan, beginning at the date they would have reached age 55 with 10 years of service had the Plan not been wound up.

9. The Report provides benefits under section 6.05 ("employer request early retirement benefits") and under section 7.04 ("bridge benefits") to those members who were at least 55 years of age and had at least 10 years of service at the effective date of the wind up. The Report fails to provide these benefits to other members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
10. The Report provides only section 6.04 ("early retirement employee request benefits") to members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
11. The Report indicates (at p.8) that at the effective date of the partial wind up, the Plan had surplus assets. The Report fails to identify the surplus assets related to the partial wind up group.
12. The Report fails to provide for the distribution of the surplus assets related to the partial wind up group, as required by the *Act*. Partial wind up is defined under the *Act* as "the termination of part of a pension plan and the distribution of the assets related to that part of the pension plan."
13. Subsection 70(6) of the *Act* states that "on the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits on the full wind up of a pension plan on the effective date of the partial wind up."
14. As a result, the Report does not meet the requirements of the *Act* and regulations and does not protect the interests of the members and former members of the pension plan.
15. Subsection 70(5) of the *Act* states that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the *Act* and the regulations or that does not protect the interests of the members and former members of the pension plan.
16. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal"), if you deliver to the Tribunal written notice that you require a hearing, within thirty (30) days after this Notice of Proposal to Refuse to Consent is served[1] on you.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 15th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

[NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF of the *Pension Benefits Act*, R.S.O. 1990, c. P.8., as amended (the "*Act*");

AND IN THE MATTER OF an application pursuant to s. 78(1) of the *Act* submitted by the Independent Order of Foresters in respect of **The Independent Order of Foresters Fieldworkers' Pension Plan, Registration No. 0354399** (the "Plan");

AND IN THE MATTER OF an Actuarial Report on the Wind up of the Plan submitted by the Independent Order of Foresters;

TO: **The Independent Order of Foresters**
789 Don Mills Road
Toronto, ON
M3C 1T9

Attention: Ms Suanne M. Thuman Nielsen
Senior Vice President-Human Resources and Communications
Applicant, Employer and Administrator of the Plan

Notice of Proposal to Refuse to Consent to Application and to Refuse to Approve a Wind Up Report

I PROPOSE TO REFUSE TO CONSENT to the application for payment of surplus to the Employer dated April 12, 2000 pursuant to s. 78(1) of the *Act*.

I PROPOSE TO REFUSE TO CONSENT TO THE APPLICATION FOR THE FOLLOWING REASONS:

1. The Plan has at all material times been a defined contribution plan and it was wound up effective December 31, 1997.
2. The application includes an actuarial report (at Tab 8) prepared July 31, 1998, and a supplementary report (at Tab 9) prepared March 30, 2000 (collectively the "Wind Up Report"), which identifies assets held in the pension fund of the Plan (the "Fund") which exceed the basic benefit entitlements of members and former members of the Plan on wind up and the provision made for expenses (the "Excess Assets"). The market value of the Excess Assets is $1,433,760 as at December 31, 1999.
3. In response to the Superintendent's request for an explanation for the accumulation of the Excess Assets in a defined contribution plan, the Employer indicated that: "while it is not possible to determine the precise source of the surplus funds, the Applicant submits that the surplus assets likely arose due to the same factors that contribute to a surplus in a defined benefit pension plan: forfeitures from non vested employer contributions plus investment return thereon; and experience gains with respect to the annuitization of the account balances...."
4. The Employer further indicated that "The Plan permitted the Applicant to utilize forfeitures against its contribution obligations. Therefore it is the Applicant's position that the crediting of investment return to member and former member accounts did not give rise to the surplus existing in the Plan as at December 31, 1997".
5. Appendix B to the surplus attribution report dated March 30, 2000 (at Tab 22 of the application) indicates that the Employer has been taking contribution holidays since 1990.
6. The *Income Tax Act* (Canada) requires that any unused portion of forfeitures be

withdrawn from a pension plan or allocated to the members of the pension plan within one year of the forfeiture. Therefore it is unlikely that forfeitures have made any substantial addition to the Excess Assets.

7. Annuitization of account balances should not give rise to gains (or losses) in a defined contribution plan.
8. The Employer has not demonstrated that the Excess Assets constitute surplus for the purposes of the *Act*.
9. Therefore the Employer has not demonstrated that it has complied with s. 79(3)(a) of the *Act*, which requires that the Superintendent be satisfied that the plan has a surplus.
10. All of the assets of the Plan, including the Excess Assets and all contributions made by Employers and members have always been included in and formed part of the Fund.
11. From the inception of the Plan until at least 1988 the Plan documents provided that the Fund was to be used only for the purpose of the payment of benefits provided for under the Plan and that on discontinuance of the Plan, the Fund shall immediately vest in the members and shall be distributed or otherwise dealt with for their benefit in such equitable manner as the Supreme Court of the Order may with the advice of the actuary by resolution decide. Hence the Plan and the Fund may have been subject to a trust (express or implied) for the benefit of the members from inception of the Plan.
12. In 1988 the Plan documents were amended to deal with surplus and provide that surplus belonged to the Employer. However, if the Plan and the Fund were subject to a trust prior to 1988, that amendment would have been void, as there was no power to amend the Plan or to revoke the trust.
13. In any event, all of the assets of the Fund became subject to a trust in favour of the Plan's members and former members, pursuant to a Trust and Master Custodial Services Agreement dated June 21, 1995 (the "Trust Agreement").
14. The provisions of the Trust Agreement by which the Employer reserved to itself the power to amend and terminate the trust and by which the Employer was given power to direct the distribution of the assets, do not permit the Employer to revoke the trust.
15. The Trust Agreement prevails over any inconsistent provisions in the text of the Plan which purport to give the Employer a right to any surplus that might exist on wind up of the Plan.
16. Even if the Excess Assets did constitute surplus for purposes of the *Act*, the Employer has not demonstrated that the Plan provides for the payment of surplus to the Employer on the wind up of the Plan.
17. Therefore the Employer has not demonstrated that it has complied with s. 79(3)(b) of the *Act*, which requires that the Plan provide for payment of surplus to the Employer on the wind up of the Plan.
18. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal"), if you deliver to the Tribunal written notice that you require a hearing, within thirty (30) days after this Notice of Proposal to Refuse to Consent is served[1] on you.

I PROPOSE, PURSUANT TO SUBSECTION 70(5) OF THE ACT, TO REFUSE TO APPROVE THE WIND UP REPORT.

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE THE WIND UP REPORT FOR THE FOLLOWING REASONS:**

19. The reasons set out in paragraphs 1 to 7 (both inclusive) above.
20. The Employer has not demonstrated that the Excess Assets do not include any funds which should form part of or be used to provide benefits for former members.
21. Therefore the Employer has not demonstrated that the Wind Up Report protects the interests of the former members of the Plan, as required by s. 70(5) of the *Act*.
22. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING, by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after the Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 19th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE – PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, (the "*Act*");

AND IN THE MATTER OF an application under s. 78(l) of the *Act* submitted by **Samsonite Canada Inc.** in respect of the **Samsonite Canadian Service Related Pension Plan, Registration No. 398578** (the "Plan");

TO: **Samsonite Canada Inc.**
753 Ontario St.,
Stratford, ON
N5A 6BI

Attention: Mr. Fred Judge
Employer and Administrator of the Plan

Notice of Proposal to Refuse to Consent to an Application

I PROPOSE TO REFUSE TO CONSENT to the application of Samsonite Canada Inc. dated November 13, 2000, for the payment of surplus to the Employer under subsection 78(l) of the *Act*.

I PROPOSE TO REFUSE CONSENT FOR THE FOLLOWING REASONS:

1. The Plan is a defined benefit plan implemented April 16, 1969, as the Samsonite of Canada Hourly Employee Pension Plan.
2. The Plan was established pursuant to a Trust Agreement made between Samsonite of Canada Ltd. and The Canada Trust Company, dated April 1, 1969 (the "Trust Agreement").
3. Under the terms of the Trust Agreement, all contributions to the Plan are made to the Trustee. When received, the contributions and any earnings from them, constitute the Trust Fund. Assets in the Trust Fund are held in trust for the benefit of the Plan's members and their beneficiaries, as designated in or pursuant to the Plan.
4. The provisions of the Trust Agreement by which the Employer reserved to itself the power to amend and terminate the Plan and the Trust Agreement do not permit the Employer to use or divert any part of the Fund for purposes other than for the exclusive benefit of the persons designated in or pursuant to the Plan.
5. The provisions of the Trust Agreement by which the Employer reserved to itself the power to amend and terminate the Plan and the Trust Agreement do not permit the Employer to revoke the Trust.
6. The provisions of the Trust Agreement prevail over any subsequent amendments to the Plan or the Trust Agreement which purport to give the Employer a right to any surplus that might exist upon the wind up of the Plan.
7. The Employer has therefore not demonstrated that it has complied with subsection 79(3)(b) of the *Act* which requires that the pension plan provide for payment of surplus to the employer on wind up.
8. Such further and other grounds as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal of Ontario (the "Tribunal"), pursuant to subsection 89(6) of the *Act*, if you deliver to the Tribunal, within thirty (30) days of the date of service of this Notice of Proposal, notice in writing requiring a hearing.[1]

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 1st day of June, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Kamana Holdings Inc. Executive Pension Plan, Registration No. 407601;**

TO: **Kamana Holdings Inc.**
30 Margaret Street
St. Thomas, ON
N5R 3H7

Attention: Mrs. Barbara Louis Ferriman
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the *Act*, consenting to the payment, out of the Kamana Holdings Inc. Executive Pension Plan, Registration No. 407601 (the "Plan"), to Kamana Holdings Inc. in the amount of $150,000 as at December 1, 1999, plus investment earnings thereon to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Kamana Holdings Inc. is the employer as defined in the Plan (the "Employer").
2. As at December 1, 1999, the surplus in the Plan was estimated at $815,343 on a solvency basis.
3. The Plan provides for payment of surplus to the Employer while the Plan is continuing.
4. The application discloses that by written agreement of the two members of the Plan, $150,000 of the surplus in the Plan as at December 1, 1999, is to be distributed to the Employer.
5. The Employer has applied, pursuant to section 78 of the *Act*, and clause 10 of the Regulation, for consent of the Superintendent of Financial Services to the payment of $150,000 of the surplus in the Plan as at December 1, 1999.
6. The application appears to comply with section 78 and subsection 79(1) of the *Act* and with clause 10 and subsection 25 of the Regulation.
7. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 27th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services

c.c. Mr. W.K. Simon, William M. Mercer Limited

'NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Pension Plan for Employees of Frank Mauro Construction Limited, Registration No. 409474;**

TO: **Frank Mauro Construction Limited**
c/o Mr. Don Jackett
McColl Turner and Company
362 Queen Street
Peterborough, ON
K9H 3J6

Attention: Mr. Frank Mauro
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the *Act*, consenting to the payment, out of the Pension Plan for Employees of Frank Mauro Construction Limited, Registration No. 409474 (the "Plan"), to Frank Mauro Construction Limited in the amount of $28,400, as at December 31, 1998, plus investment earnings thereon to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Frank Mauro Construction Limited is the employer as defined in the Plan (the "Employer").
2. The Plan was wound up, effective December 31, 1998.
3. As at December 31, 1998, the surplus in the Plan was estimated at $28,400.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The Plan is a designated pension plan.
6. The application discloses that by written agreement of the sole member of the Plan, at the time of wind up, the surplus in the Plan is to be distributed 100% to the Employer.
7. The Employer has applied, pursuant to section 78 of the *Act*, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 100% of the surplus in the Plan.
8. The application appears to comply with section 78 and subsection 79(3) of the *Act* and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
9. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 26th day of March, 2001.

Dina Palozzi

Superintendent of Financial Services

c.c. Ms. Donna Wolfe, Cowan Wright Limited

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Pension Plan for Employees of C.J. Duguid Flooring (Ontario) Limited, Registration No. 0481457;**

TO: **C.J. Duguid Flooring (Ontario) Limited**
317 Don Park Road
Markham, ON
L3R 1C2

Attention: John Duguid
President
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the *Act*, consenting to the payment, out of the Pension Plan for Employees of C.J. Duguid Flooring (Ontario) Limited, Registration No. 0481457 (the "Plan"), to C.J. Duguid Flooring (Ontario) Limited in the amount of $247,451 as at December 31, 1999, adjusted for investment earnings and losses thereon and expenses to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. C.J. Duguid Flooring (Ontario) Limited is the employer as defined in the Plan (the "Employer").
2. The Plan was wound up, effective December 31, 1999.
3. As at December 31, 1999, the surplus in the Plan was estimated at $247,451.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer, and 100% of the active members and other members (as defined in the application), the surplus in the Plan at the date of payment, after deduction of wind up expenses is to be distributed 100% to the Employer.
6. The Employer has applied, pursuant to section 78 of the *Act*, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 100% of the surplus in the Plan (after adding 100% of investment earnings and deducting 100% of the expenses related to the wind up of the Plan.)
7. The application appears to comply with section 78 and subsection 79(3) of the *Act* and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 22nd day of May, 2001.

Dina Palozzi

Superintendent of Financial Services

c.c. Donna Wolfe, Cowan Wright Limited
Timothy B. Lawrence, Cowan Wright Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, respecting the **Employee Retirement Plan for Employees of Murphy Distributing Ltd., Registration No. 512137;**

TO: **London Life Insurance Company**
255 Dufferin Avenue
London, ON
N6A 4K1

Attention: Nancy Galpin
Customer Service Specialist
Administrator

AND TO: **Murphy Distributing Ltd.**
P.O. Box 427
37 Woodyatt Drive
Brantford, ON
N3T 5M3

Attention: Cameron Manning
Chief Financial Officer
Employer

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that the Employee Retirement Plan for the Employees of Murphy Distributing Ltd., Registration No. 512137 (the "Plan"), be wound up in whole effective November 26, 1999.

I propose to make this order pursuant to subsection 69(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*").

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer failed to make contributions to the pension fund as required by the *Act* or the regulations made under the *Act*.
3. A significant number of members of the Plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons:

Cavalluzzo Hayes Shilton McIntyre & Cornish
43 Madison Avenue
Toronto, ON
M5R 2S2

Attention: Elizabeth Shilton
Counsel

Legal Representative for the Retail Wholesale Canada Division of the C.A.W. , Local 414

Schonfeld Inc. McIntyre & Cornish
390 Bay Street, Suite 2400
Toronto, ON
M5H 2Y2

Attention: S. Harland Schonfeld, CA, CIP

Trustee in Bankruptcy for Murphy Distributing Ltd.

DATED at Toronto, Ontario, this 29th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF of the *Pension Benefits Act*, R.S.O. 1990, c. P.8., as amended (the "*Act*");

AND IN THE MATTER OF a Partial Wind Up Report submitted by CBS Canada Inc. to the Superintendent of Financial Services respecting the **Westinghouse Canada Inc. Consolidated Pension Plan, Registration No. 526632** (the "Plan");

TO: **CBS Canada Inc.**
11 Stanwix Street
Pittsburgh, Pennsylvania
15222-1384
USA

Attention: Julie Forsythe
Administrator and Employer

Notice of Proposal to Refuse to Approve a Partial Wind Up Report

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Partial Wind Up Report (the "Report"), prepared by William M. Mercer Limited for the Westinghouse Canada Inc. Pension Plan, Registration No. 526632, (the "Plan"), as at November 1, 1992, in respect of the business carried on by Westinghouse at its London, Ontario and St. Jean, Quebec plants.

I PROPOSE TO REFUSE TO APPROVE THE REPORT FOR THE FOLLOWING REASONS:

1. CBS Canada Inc., formerly Westinghouse Canada Inc. ("Westinghouse"), is the employer and administrator of the Plan.
2. In May 1999, the Superintendent ordered the Plan partially wound up effective November 1, 1992, in respect of members with entitlements under the Plan who were employed at the employer's London, Ontario and St. Jean, Quebec plants.
3. Westinghouse filed the Report in March 2000.
4. Section 6.02 of the Plan allows a member to request early retirement at any time after having attained 55 years of age. The employer also may request that an employee retire at any time after the employee has attained 55 years of age.
5. Section 7.02 (a) of the Plan provides for early retirement benefits at the request of plan members ("employee request early retirement benefits"). Section 7.02 (b) of the Plan provides for early retirement benefits at the request of the employer ("employer request early retirement benefits"). Section 7.02 (b) benefits are more financially advantageous to retired employees than section 7.02 (a) benefits.
6. Section 7.04 of the Plan provides for a "bridge benefit" to members retiring before they become eligible to receive an Old Age Security pension. Such benefits are available to any member who retires early at the request of the employer, but are only available to members who retire early at their own request after attaining 62 years of age.
7. Section 74 of the *Act* provides certain benefits to plan members whose combination of age and continuous employment or membership in the plan equals at least 55, upon the wind up of a pension plan. These members may receive a pension in accordance with the terms of the plan, and where the consent of the employer is a requirement for eligibility for an ancillary benefit, under subsection 74(7) the employer is deemed to have given that consent.

8. Pursuant to section 74 of the *Act*, and pursuant to the terms of the Plan, those members of the Plan whose combination of age plus years of continuous employment or membership in the Plan equalled at least 55 at the effective date of the wind up have a right to receive a pension in accordance with sections 7.02 (b) ("employer request early retirement benefits") and 7.04 ("bridge benefits") of the Plan, beginning at the date they would have reached age 55 with 10 years of service had the Plan not been wound up. The Report provides benefits under section 7.02.(b) ("employer request early retirement benefits") and 7.04 ("bridge benefits") to those members who were at least 55 years of age and had at least 10 years of service at the effective date of the wind up. The Report fails to provide these benefits to other members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
9. The Report provides only section 7.02 (a) benefits ("employee request early retirement benefits") to members whose combination of years plus service equals at least 55 at the effective date of the wind up.
10. The Report indicates that the Plan had a funding deficit as of December 31, 1992. The deficit related to the Ontario partial wind up members is $230,996. However, as of January 1, 2000, the Plan had a surplus. The surplus calculated as of January 1, 2000, amounts to $46,042 for the Ontario members.
11. The Report indicates (at p. 21) that after the settlement of basic benefits has been completed, any excess assets shall be retained in the Plan.
12. The Report fails to provide for the distribution of the surplus assets related to the Ontario partial wind up group, as required by the *Act*. Partial wind up is defined under the *Act* as "the termination of part of a pension plan and the distribution of the assets related to that part of the pension plan."
13. Subsection 70(6) of the *Act* states that "on the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits on the full wind up of a pension plan on the effective date of the partial wind up."
14. As a result, the Report does not meet the requirements of the *Act* and regulations and does not protect the interests of the members and former members of the pension plan.
15. Subsection 70(5) of the *Act* states that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the *Act* and the regulations or that does not protect the interests of the members and former members of the pension plan.
16. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal") if you deliver to the Tribunal written notice that you require a hearing, within thirty (30) days after this notice of proposal to refuse to consent is served[1] on you.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 9th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF of the *Pension Benefits Act*, R.S.O. 1990, c. P.8., as amended (the "*Act*");

AND IN THE MATTER OF a Partial Wind Up Report submitted by CBS Canada Inc. to the Superintendent of Financial Services respecting the **Westinghouse Canada Inc. Consolidated Pension Plan, Registration No. 526632** (the "Plan");

TO: **CBS Canada Inc.**
11 Stanwix Street
Pittsburgh, Pennsylvania
15222-1384
USA

Attention: Julie Forsythe
Administrator and Employer

Notice of Proposal to Refuse to Approve a Partial Wind Up Report

I PROPOSE, pursuant to subsection 70(5) of the *Act*, **TO REFUSE TO APPROVE** the Partial Wind Up Report (the "Report"), prepared by William M. Mercer Limited for the Westinghouse Canada Inc. Consolidated Pension Plan, Registration No. 526632, (the "Plan"), as at April 30, 1995, in respect of the business carried on by Westinghouse at its Motors Division plant.

I PROPOSE TO REFUSE TO APPROVE THE REPORT FOR THE FOLLOWING REASONS:

1. CBS Canada Co., formerly Westinghouse Canada Inc. ("Westinghouse"), is the employer and administrator of the Plan.
2. The Plan was partially wound up as a result of the plant closedown of the Westinghouse Motors Division in April 1995.
3. Westinghouse filed the Report in October 1996.
4. Section 6.02 of the Plan allows a member to request early retirement at any time after having attained 55 years of age. The employer also may request that an employee retire at any time after the employee has attained 55 years of age.
5. Section 7.02 (a) of the Plan provides for early retirement benefits at the request of plan members ("employee request early retirement benefits"). Section 7.02 (b) of the Plan provides for early retirement benefits at the request of the employer ("employer request early retirement benefits"). Section 7.02 (b) benefits are more financially advantageous to retired employees than section 7.02 (a) benefits.
6. Section 7.04 of the Plan provides for a "bridge benefit" to members retiring before they become eligible to receive an Old Age Security pension. Such benefits are available to any member who retires early at the request of the employer, but are only available to members who retire early at their own request after attaining 62 years of age.
7. Section 74 of the *Act* provides certain benefits to plan members whose combination of age and continuous employment or membership in the plan equals at least 55, upon the wind up of a pension plan. These members may receive a pension in accordance with the terms of the plan, and where the consent of the employer is a requirement for eligibility for an ancillary benefit, under subsection 74(7) the employer is deemed to have given that consent.

8. Pursuant to section 74 of the *Act*, and pursuant to the terms of the Plan, those members of the Plan whose combination of age plus years of continuous employment or membership in the Plan equalled at least 55 at the effective date of the wind up have a right to receive a pension in accordance with sections 7.02 (b) ("employer request early retirement benefits") and 7.04 ("bridge benefits") of the Plan, beginning at the date they would have reached age 55 with 10 years of service had the Plan not been wound up.
9. The Report provides benefits under section 7.02.(b) ("employer request early retirement benefits") and 7.04 ("bridge benefits") to those members who were at least 55 years of age and had at least 10 years of service at the effective date of the wind up. The Report fails to provide these benefits to other members whose combination of age plus years of service equalled at least 55 at the effective date of the wind up.
10. The Report provides only section 7.02 (a) benefits ("employee request early retirement benefits") to members whose combination of years plus service equals at least 55 at the effective date of the wind up.
11. As a result, the Report does not meet the requirements of the *Act* and regulations and does not protect the interests of the members and former members of the pension plan.
12. Subsection 70(5) of the *Act* states that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the *Act* and the regulations or that does not protect the interests of the members and former members of the pension plan.
13. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal") if you deliver to the Tribunal written notice that you require a hearing, within thirty (30) days after this notice of proposal to refuse to consent is served[1] on you.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 15th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Retirement Plan for the Employees of Furnas Electric Company, Registration No. 532234;**

TO: **Siemens Canada Limited**
Applicant
c/o Ms. Farida Samji
William M. Mercer Limited
BCE Place
161 Bay Street, P.O. Box 501
Toronto, ON
M5J 2S5

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the *Act*, consenting to the payment, out of the Retirement Plan for the Employees of Furnas Electric Company, Registration No. 532234 (the "Plan"), to Siemens Canada Limited in the amount equal to 50% of the net surplus after taking into account the investment earnings realized and expenses incurred to the date of surplus payment. The plan had a surplus of $218,822 as at September 30, 1996, the effective date of the wind up.

I PROPOSE TO MAKE THE ORDER effective only after the Applicant satisfies me that all benefits and other payments, including any enhancements arising from the surplus sharing agreement, to which members, former members and any other persons are entitled on the termination of the pension plan have been paid or provided for by the administrator of the pension plan.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. The employer as defined in the Plan is Furnas Electric Company. Pursuant to an Asset Purchase Agreement, the Plan was transferred to Siemens Electric Limited. The applicant, Siemens Canada Limited, is the corporation resulting from the amalgamation of Siemens Electric Limited and Siemens Hearing Instruments Ltd.
2. The Plan was wound up, effective September 30, 1996.
3. As at September 30, 1996, the surplus in the Plan was estimated at $218,822.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer, and 76% of the active members, and 100% of the former members, and other persons entitled to payments, the surplus in the Plan at the date of payment, after deduction of wind up expenses is to be distributed:
   a) 50% to the Employer; and
   b) 50% to the beneficiaries of the Plan as defined in the surplus distribution agreement.
6. The Employer has applied, pursuant to section 78 of the *Act*, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 50% of the surplus in the Plan (after adding 50% of investment earnings and deducting 50% of the expenses related to the wind up of the Plan.)

7. The application appears to comply with section 78 and subsection 79(3)(a) and (b) of the *Act* and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of April, 2001.
Dina Palozzi
Superintendent of Financial Services

c.c. Mr. John Mole, Siemens Canada Limited

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF an application by Camco Inc. for the consent of the Superintendent of Financial Services to transfer the assets of **Camco Inc. Pension Plan No. 4, Registration No. 0583302 to Camco Inc. Pension Plan No. 7, Registration No. 0583336;**

TO: **Camco Inc.**
5800 Keaton Crescent
Mississauga, ON
L5R 3K2

Attention: Ms. Irene Lum
Employer and Administrator of the Camco Inc. Pension Plan No. 4 and the Camco Inc. Pension Plan No. 7

Notice of Proposal to Refuse to Consent to a Transfer of Assets

I PROPOSE TO REFUSE TO CONSENT to a transfer of assets proposed by Camco Inc. from the Camco Inc. Pension Plan No. 4 ("Plan No. 4"), Registration No. 0583302 to the Camco Inc. Pension Plan No. 7 ("Plan No. 7"), Registration No. 0583336.

I PROPOSE TO REFUSE THIS CONSENT FOR THE FOLLOWING REASONS:

1. Camco Inc. ("Camco") is the employer and administrator of Plan No. 4 and Plan No. 7.
2. In December 1999, Camco applied for a consent to the transfer of assets from Plan No. 4 to Plan No. 7, effective January 1, 1999, which would result in the merger of the two plans.
3. The actuarial reports submitted in support of Camco's application state that at the effective date of the merger, Plan No. 4 had 129 former members, a solvency surplus of $1,806,000, and a transfer ratio of 1.62.
4. The actuarial reports submitted in support of Camco's merger application state that at the effective date of the merger, Plan No. 7 had 1,578 members and former members, a solvency deficit of $3,673,000.00, and a transfer ratio of 0.70.
5. The actuarial reports submitted in support of Camco's merger application state that immediately after the merger, the merged plan will have a solvency deficit of $1,867,000.00 and a transfer ratio of 0.74.
6. In July of 2000, Camco amended its application to provide that annuities will be purchased for all the former members of Plan No. 4 immediately after the merger. Camco claims that this will raise the transfer ratio for the merged plan to over 0.80.
7. The asset transfer does not protect the pension benefits and other benefits of the former members of Plan No. 4 under subsection 81(5) of the *Act*. Since the transfer ratio of the merged (importing) plan is less than the highest transfer ratio of one of the exporting plans, Plan No. 4, and is less than 1.0 the benefits of the former plan members may not be protected.
8. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 30th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services
21241

'NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28, respecting the **Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Salaried Non-Managerial Non-Unionized Employees), Registration No. 597948;**

TO: **Ernst & Young Inc.**
222 Bay Street
P. O. Box 251
Toronto-Dominion Centre
Toronto, ON
M5K 1J7

Attention: Felix Hsu
Manager
Administrator of the Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Salaried Non-Managerial Non-Unionized Employees)

AND TO: **Forest City International Trucks Ltd.**
3003 Page Street
London, ON
N5V 4J1

Attention: John Parliament
Controller
Employer

Notice of Proposal to Make a Declaration

WHEREAS:

1. The Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Salaried Non-Managerial Non-Unionized Employees), Registration Number 597948 (the "Pension Plan") is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P.8 as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the *Act* or the regulations made thereunder; and
3. The Pension Plan was wound up effective May 25, 1991; and
4. The Superintendent of Pensions appointed Ernst & Young Inc. as the administrator (the "Administrator") of the Pension Plan on February 5, 1992.

NOW THEREFORE TAKE NOTICE I propose to consider to make a declaration pursuant to section 83 of the *Act* that the Guarantee Fund applies to the Pension Plan **FOR THE FOLLOWING REASONS:**

1. The Wind Up Report filed by the Administrator indicates an estimated funding deficiency of $76,408.00 as at May 25, 1991, and an estimated claim against the Guarantee Fund as at September 30, 2000, of $192,728.00.
2. On May 25, 1991, Forest City International Trucks Ltd. was assigned into bankruptcy.

3. The trustee in bankruptcy of Forest City International Trucks Ltd. had advised the Administrator that there were no assets available for the Pension Plan. The trustee was discharged in October, 1993.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 26th day of March, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE – PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, respecting the **Pension Plan for Employees of JPE Canada Inc. who are members of C.A.W. Locals 1524 and 1987 (formerly known as the Pension Plan for Employees of Pebra Inc. who are members of C.A.W. Locals 1524 and 1987), Registration No. 694570;**

TO: **PricewaterhouseCoopers Limited**
Suite 1100
One Robert Speck Parkway
Mississauga, ON
L4Z 3M3

Attention: Lois Reyes
Senior Counsel
Administrator

AND TO: **JPE Canada Inc.**
775 Technology Drive
P.O. Box 660
Peterborough, ON
K9J 6Z8

Attention: Robert Tock
Controller
Employer

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that the Pension Plan for Employees of JPE Canada Inc. who are Members of C.A.W. Locals 1524 and 1987 (formerly known as the Pension Plan for Employees of Pebra Inc. who are members of C.A.W. Locals 1524 and 1987), Registration No. 694570 (the "Plan"), be wound up in whole effective February 9, 1999.

I propose to make this order pursuant to subsection 69(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *"Act"*).

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act (Canada), R.S.* 1985, c.B-3, as amended.
3. A significant number of members of the Plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED, pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons:

C.A.W. Local 1524
600 Wabanaki Drive
Kitchener, ON
N2C 2K4

Attention: David Bailey
President
Union

C.A.W. Local 1987
654 Rogers Street
Peterborough, ON
K9H 1Y2

Attention: Ms. Rose Forrestall
President
Union

C.A.W. Canada
205 Placer Court
North York, ON
M2H 3H9

Attention: Tom Murphy
National Representative
Union

Grant Thornton Limited
Royal Bank Plaza
19th Floor, South Tower
200 Bay Street
Box 55
Toronto, ON
M5J 2P9

Attention: Andrea Orr
Interim Receiver and Trustee in Bankruptcy for JPE Canada Inc.

DATED at Toronto, Ontario, this 2nd day of March, 2001.
Dina Palozzi
Superintendent of Financial Services
21730

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order, pursuant to section 69 of the *Pension Benefits Act*, respecting **The Pension Plan for the Employees of Tee-Comm Electronics Inc., Registration No. 0905075;**

TO: **The Manufacturers Life Insurance Company**
500 King Street North,
Waterloo, ON
N2J 4C6

Attention: Ms. Karen Osborne
Discontinuance Underwriter
Administrator of The Pension Plan for the Employees of Tee-Comm Electronics Inc.

AND TO: **Tee-Comm Electronics Inc.**
775 Main Street East,
Milton, ON
L9T 3Z3

Attention: Reg Tiessen
Director of Finance
Employer

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that The Pension Plan for the Employees of Tee-Comm Electronics Inc., Registration No. 0905075, be wound up effective June 30, 1997.

I propose to make this Order pursuant to subsection 69(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *"Act"*).

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. There has been a cessation or suspension of employer contributions to the pension fund, under paragraph 69(1)(a) of the *Act*;
2. The employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada) under paragraph 69(1)(c) of the *Act*;
3. A significant number of members have ceased to be employed by the employer as the result of the discontinuance of the business of the employer, under paragraph 69(1)(d) of the *Act*;
4. All of the business of the employer has been discontinued under paragraph 69(1)(e) of the *Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED, pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Orde. to the following persons:

Ernst & Young Inc.
Ernst & YoungTower
Toronto-Dominion Centre
P.O. Box 251
222 Bay Street,
Toronto, ON
M5K 1J7

Attention: Sharon Hamilton
Receiver for Tee-Comm Electronics Inc.

KPMG Inc.
Suite 3300, Commerce Court West
P.O. Box 31, Stn. Commerce Court
Toronto, ON
M5L 1B2

Attention: Jack Richards
Vice President
Trustee In Bankruptcy for Tee-Comm Electronics

DATED at Toronto, Ontario, this 9th day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

21640

NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, respecting the **Royal Oak Mines Inc. Pension Plan for Timmins Salaried Employees, Registration No. 937458;**

TO: **Deloitte & Touche Inc., by its agent**
Morneau Sobeco
1500 Don Mills Road, Suite 500
Toronto, ON
M3B 3K4

Attention: Julie Seewald
Associate Consultant
Administrator

AND TO: **Royal Oak Mines Inc.**
P.O. Box 2010
Timmins, ON
P4N 7X7

Attention: Rachel A. Pineault
Pension Administrator
Employer

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that the Royal Oak Mines Inc. Pension Plan for Timmins Salaried Employees, Registration No. 937458 (the "Plan") be wound up in whole effective between September 1, 1999, and February 14, 2000.

I propose to make this order pursuant to subsection 69(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*").

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. There was a cessation or suspension of employer contributions to the pension fund, within the meaning of clause 69(1)(a) of the *Act*.
2. The employer failed to make contributions to the pension fund as required by the *Act* or the regulations within the meaning of clause 69(1)(b) of the *Act*.
3. A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer, within the meaning of clause 69(1)(d) of the *Act*.
4. All or a significant portion of the business carried on by the employer at a specific location was discontinued, within the meaning of clause 69(1)(e) of the *Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons:

PricewaterhouseCoopers Inc.
18th Floor, 145 King Street West
Toronto, ON
M5H 1V8

Attention: Jim Reive
Sr. Associate, Financial
Advisory Services
Interim Receiver for Royal Oak Mines Inc.

DATED at Toronto, Ontario, this 11th day of June, 2001.
Dina Palozzi
Superintendent of Financial Services

'NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, respecting the **Royal Oak Mines Inc. Pension Plan for Timmins Hourly Employees, Registration No. 937466;**

TO: **Deloitte & Touche Inc., by its agent**
Morneau Sobeco
1500 Don Mills Road, Suite 500
Toronto, ON
M3B 3K4

Attention: Julie Seewald
Senior Analyst
Administrator

AND TO: **Royal Oak Mines Inc.**
P.O. Box 2010
Timmins, ON
P4N 7X7

Attention: Rachel A. Pineault
Pension Administrator
Employer

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that the Royal Oak Mines Inc. Pension Plan for Timmins Hourly Employees, Registration No. 937466 (the "Plan") be wound up in whole effective between September 20, 1999, and December 23, 1999.

I propose to make this order pursuant to subsection 69(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*").

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. There was a cessation or suspension of employer contributions to the pension fund, within the meaning of clause 69(1)(a) of the *Act*.
2. The employer failed to make contributions to the pension fund as required by the *Act* or the regulations within the meaning of clause 69(1)(b) of the *Act*.
3. A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer, within the meaning of clause 69(1)(d) of the *Act*.
4. All or a significant portion of the business carried on by the employer at a specific location was discontinued, within the meaning of clause 69(1)(e) of the *Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons:

Sack Goldblatt Mitchell
Barristers & Solicitors
20 Dundas Street West
Suite 1130, P.O. Box 180
Toronto, ON
M5G 2G8

Attention: Michael Kainer
Legal Representative for the Union, the United Steelworkers of America

PricewaterhouseCoopers Inc.
18th Floor, 145 King Street West
Toronto, ON
M5H 1V8

Attention: Jim Reive
Sr. Associate, Financial Advisory Services
Interim Receiver for Royal Oak Mines Inc.

DATED at Toronto, Ontario, this 11th day of June, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Pension Plan for Salaried Employees of Humpty Dumpty Snack Foods Inc., Registration No. 944876;**

TO: **Humpty Dumpty Snack Foods Inc.**
3065 King Street East
Kitchener, ON
N2A 1B1

Attention: Lois Norris
VP Finance & CFO
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(4) of the *Act*, consenting to the payment, out of the Pension Plan for Salaried Employees of Humpty Dumpty Snack Foods Inc., Registration No. 944876 (the "Plan"), to Humpty Dumpty Snack Foods Inc. in the amount of $76,330.73.

I PROPOSE TO MAKE THE ORDER effective September 13, 2000.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Humpty Dumpty Snack Foods Inc. is the employer as defined in the Plan (the "Employer").
2. The Employer made contributions of $76,330.55 in respect of the period January 1, 2000 to September 13, 2000, inclusive. These payments were based on the recommended contributions in the actuarial report effective December 1998. The contributions should have been based on the actuarial report effective December 31, 1999, which recommended no contributions for the year 2000.
3. The actuarial report effective December 31, 1999, has been filed with the Financial Services Commission of Ontario.
4. Evidence of this overpayment to the fund for the period January 1, 2000 to September 13, 2000 has been submitted to the Financial Services Commission of Ontario.
5. The Employer has distributed copies of the notice of application for the refund of employer overpayment to the pension fund to all members and former members.
6. There were no member submissions about the overpayment.
7. The application appears to comply with section 78(4) of the *Act*.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 23rd day of April, 2001.

Dina Palozzi
Superintendent of Financial Services

c.c. Alan F. Exley, Cowan Wright Limited
c.c. Sue McGrath, Cowan Wright Limited

'NOTE – PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28, respecting the **Van Dresser Limited Non-Contributory Pension Plan (the "Pension Plan"), Registration No. 960005 (formerly C-100753);**

TO: **Ernst & Young Inc.**
Ernst & Young Tower
Toronto-Dominion Centre
P. O. Box 251, 222 Bay Street
Toronto, ON
M5K 1J7

Attention: Mr. Brian Denega
Senior Vice-President
Administrator of the Van Dresser Limited Non-Contributory Pension Plan

AND TO: **Van Dresser Limited**
139 Northfield Drive
Waterloo, ON
N2L 5A6

Attention: Jeff Bradshaw
Controller
Employer

AND TO: **KPMG Inc. (formerly Peat Marwick Thorne Inc.)**
Suite 3300, Commerce Court West
P. O. Box 31,
Station Commerce Court
Toronto, ON
M5L 1B2

Attention: Mr. Michael Creber
Senior Vice-President
Trustee in Bankruptcy and Receiver and Manager, Van Dresser Limited

AND TO: **C.A.W.-Canada**
205 Placer Court
North York, ON
M2H 3H9

Attention: Mr. Lewis Gottheil
Counsel
Union Representative

Notice of Proposal to Make a Declaration

WHEREAS:

1. The Van Dresser Limited Non-Contributory Pension Plan, Registration No. 960005 (formerly C-100753) (the "Pension Plan"), is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P.8 as amended by the *Financial Services Commission of Ontario Act, 1997*, c. 28, (the "*Act*"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the *Act* or the regulations made thereunder; and
3. The Pension Plan was wound up effective July 17, 1992; and
4. The Superintendent of Pensions appointed Ernst & Young Inc. as the administrator (the "Administrator") of the Pension Plan on September 9, 1992.

NOW THEREFORE TAKE NOTICE I propose to consider to make a declaration pursuant to section 83 of the *Act* that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The Supplement to the Wind Up Report filed by the Administrator indicates an estimated funding deficiency of $372,871.00 as at May 31, 2001.
2. KPMG Inc. was appointed Receiver and Manager of Van Dresser Limited on February 21, 1992 and Trustee in Bankruptcy on May 5, 1992.
3. The trustee in bankruptcy of Van Dresser Limited has advised the Administrator that there are no assets available from the estate of Van Dresser Limited for the Pension Plan.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 31st day of May, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the Pension Benefits *Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*"); **AND IN THE MATTER OF** a Proposal by the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Pension Plan for Limitorque of Canada Ltd., Registration No. 979187** (the "Plan");

TO: **Canadian Worcester Controls Limited**
c/o Invensys Inc.
33 Commercial Street
B52-S1 Foxboro, Massachusetts
02035
USA

Attention: Ms. Allyn Jerome
Benefits Specialist
Employer and Administrator

Notice of Proposal to Make an Order

I PROPOSE TO ORDER that the Plan be wound up in part in relation to those members and former members of the Plan who were employed by Limitorque of Canada Ltd. (the "Employer") and who ceased to be employed by the Employer effective between February 1, 1995 and January 31, 1996, or the date the last Plan member employed by the Employer ceased employment, whichever is later, as a result of:

(i) the discontinuance of all or part of the business of the Employer; or

(ii) the discontinuance of all or a significant portion of the business carried on by the Employer at a specific location.

I propose to make this order pursuant to subsection 69(1) of the *Act*.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Limitorque of Canada Ltd. is the employer and administrator of the Plan.
2. A significant number of members of the Plan ceased to be employed by the Employer as a result of the discontinuance of all or part of the business of the Employer between February 1, 1995 and January 31, 1996, within the meaning of s.69(1)(d) of the *Act*.
3. All or a significant portion of the business carried on by the Employer at a specific location was discontinued between February 1, 1995 and January 31, 1996, within the meaning of ss.69(1)(e) of the *Act*.
4. Such further and other reasons that may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED, pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons: all members and former members of the Plan who were employed by the Employer and who ceased to be employed by the Employer effective between February 1, 1995 and January 31, 1996.

DATED at Toronto, Ontario, this 8th day of June, 2001.
Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act*, any notice, order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IN THE MATTER OF the Pension Benefits *Act*, R.S.O. 1990, c. P.8, as amended by the Financial Services Commission of Ontario *Act*, 1997, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Pension Plan for Unionized Employees of Flexia Corporation at Brantford, Registration No. 980037;**

TO: **Flexia Corporation**
369 Elgin Street
Brantford, ON
N3S 7P5

Attention: Mr. Duncan Fletcher
Chief Financial
Applicant and Employer

Notice of Proposal

I PROPOSE TO MAKE AN ORDER under s. 78(4) of the *Act*, consenting to the payment, out of The Pension Plan for Unionized Employees of Flexia Corporation, Registration No. 980037 (the "Plan"), to Flexia Corporation, in the amount of $130,115.31 as at December 27, 2000 plus investment earnings thereon to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Flexia Corporation is the employer as defined in the Plan (the "Employer").
2. The Employer had made contribution to the fund of $245,085 during fiscal year 2000, based on the recommended contributions in the actuarial report effective December 31, 1997. The contributions exceeded the minimum funding amounts as per the actuarial report effective December 31, 1999 by $221,085.45.
3. The actuarial reports, effective December 31, 1997 and December 31, 1999, have been filed with the Financial Services Commission of Ontario.
4. Evidence of the payments during fiscal year 2000 has been submitted with the application.
5. The application appears to comply with subsection 78(4) of the *Act*.
6. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served[1] on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9
Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 17th day of May, 2001.

Dina Palozzi
Superintendent of Financial Services

c.c. Mr. Chris T. Tomev, F.S.A., Avalon Actuarial Consulting Inc.

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the Pension Benefits *Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF the Partial Windup Report as at May 7, 1997, filed by Consumers Packaging Inc. in May 2000, with respect to the **Consumers Packaging Inc. Pension Plan II, Registration No. 0998682** (the "Plan"), and Amendment No. 2 to the Plan dated May 18, 1997;

TO: **Consumers Packaging Inc.**
777 Kipling Avenue
Etobicoke, ON
M8Z 5Z4

Attention: Phil Coupey and Suzanne Hudon
Employer and Administrator of the Plan

Notice of Proposal to Refuse to Approve a Partial Wind Up Report and to Refuse to Register an Amendment

I PROPOSE TO REFUSE TO APPROVE A PARTIAL WIND UP REPORT filed by Consumers Packaging Inc. on May 19, 2000, with respect to a partial wind up of the Plan effective May 7, 1997, pursuant to subsection 70(5) of the *Act*.

I ALSO PROPOSE TO REFUSE TO REGISTER AN AMENDMENT to the Plan dated May 18, 2000 and filed by Consumers Packaging Inc. on May 19, 2000, titled Amendment No. 2, pursuant to clause 18(1)(d) of the *Act*.

I PROPOSE TO MAKE THESE REFUSALS FOR THE FOLLOWING REASONS:

1. Consumers Packaging Inc. is the employer and administrator of the Plan. As a result of the closure of its plant in Hamilton, Ontario, Consumers Packaging Inc. filed a partial wind up report in 1997 (the "1997 report").
2. Two Notices of Proposal were issued on May 14, 1999. One Notice of Proposal ordered Consumers Packaging Inc. to accept as members of the Plan certain replacement call-in employees. The other Notice of Proposal refused to approve the 1997 report on the grounds that the replacement call-in employees were not included in the report and that "grow-in" to plant closure benefits was not provided to unionized hourly employees affected by the partial wind up.
3. Consumers Packaging Inc. requested a hearing before the Financial Services Tribunal (the "Tribunal") with respect to both Notices of Proposal. The hearing concerning the replacement call-in employees was settled by the parties in December of 1999. Pursuant to the terms of the settlement, an Order was issued on January 10, 2000, requiring Consumers Packaging Inc. to accept as members of the Plan those replacement call-in employees who met certain conditions.
4. The hearing concerning the "grow-in" to plant closure benefits was discontinued in March of 2000, after Consumers Packaging Inc. withdrew its hearing request. An Order was subsequently issued requiring Consumers Packaging Inc. to file an amended partial wind up report by April 28, 2000. The Order required the amended partial wind up report to include the liabilities for the replacement call-in employees and the liabilities for the "grow-in" to plant closure benefits.
5. In 1997, Consumers Packaging Inc. also filed an application to register Amendment No. 2 to the Plan (the "1997 Amendment"), which provided enhanced bridge benefits to members who had at least 10 years of continuous service as well as 55 points in age and years

of service. There was no age restriction in the 1997 Amendment. Neither Notice of Proposal concerned the 1997 Amendment.

6. On May 19, 2000, Consumers Packaging Inc. filed a revised partial wind up report (the "revised report") and a revised application to register Amendment No. (the "revised Amendment"). The revised Amendment placed a restriction on the enhanced bridge benefits; a member with 10 years of continuous service plus 55 points in age plus service was not eligible for these benefits if his or her pension was commencing prior to the age of 60. The revised report calculated the commuted values for members affected by the partial wind up based on the revised Amendment.
7. The 1997 Amendment was a valid amendment pursuant to section 13 and subsection 19(3)(b) of the *Act*. The revised Amendment is void pursuant to clause 14(1)(c) of the *Act*, in that it purports to reduce the amount or the commuted value of an ancillary benefit granted by the 1997 Amendment for which a member or former member has met all eligibility requirements under the Plan necessary to exercise the right to receive payment of the benefit.
8. The revised report does not meet the requirements of the *Act* pursuant to subsection 70(5) of the *Act* because the commuted value of the pension benefits and ancillary benefits for the affected members is calculated based on the revised Amendment, which is void under the *Act*. The revised report does not protect the interests of the members and former members of the Plan for the same reason.
9. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal to Refuse is served[1] upon you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing shall be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
Toronto, ON
M2N 6L9
Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I WILL MAKE AN ORDER REFUSING TO APPROVE THE REVISED REPORT AND AN ORDER REFUSING TO REGISTER THE REVISED AMENDMENT.

DATED at Toronto, Ontario, this 20th day of April, 2001.

Dina Palozzi
Superintendent of Financial Services

[1]NOTE - PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

Orders That Pension Plans be Wound Up - Section 69 of the PBA

IN THE MATTER OF the Pension Benefits *Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the Pension Benefits *Act*, R.S.O. 1990, c. P.8, as amended, respecting the **Registered Pension Plan for Salaried (Non-Union) Employees of JPE Canada Inc., Registration No. 1038330;**

TO: **Clarica Life Insurance Company**
227 King Street South
P.O. Box 1601
Waterloo, ON
N2J 4C5

Attention: Terri-Lynn Moser
Finals Associate
Administrator

AND TO: **JPE Canada Inc.**
775 Technology Drive
P.O. Box 660
Peterborough, ON
K9J 6Z8

Attention: D.L. Bacon
Secretary
Employer

Order

ON the 26th day of March, 2001, I issued a **Notice of Proposal to make an Order** dated the 20th day of March, 2001, pursuant to subsection 69(1) of the *Act*, to the Administrator and to the Employer to wind up in whole the Registered Pension Plan for Salaried (Non-Union) Employees of JPE Canada Inc., Registration No. 1038330 (the "Plan") effective the 28th day of February, 1999.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal, (the "Tribunal"), by the Administrator and/or the Employer within the time prescribed by subsection 89(6) of the *Act*.

IT IS THEREFORE HEREBY ORDERED that the **Registered Pension Plan for Salaried (Non-Union) Employees of JPE Canada Inc., Registration No. 1038330** be wound up in whole effective the 28th day of February, 1999, for the following reasons:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act (Canada)*, R.S. 1985, c.B-3, as amended.
3. A significant number of members of the Plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

PURSUANT TO subsection 69(2) of the *Act*, the Administrator is required to give notice of this Order to the following persons by transmitting a copy hereof:

Grant Thornton Limited
Royal Bank Plaza
200 Bay Street, 19th Floor
P.O. Box 55
Toronto, ON
M5J 2P9
Attention: Allan Rutman
Interim Receiver and Trustee in Bankruptcy for JPE Canada Inc.

DATED at Toronto, Ontario this 6th day of June, 2001.

K. David Gordon
Director, Pension Plans Branch
by Delegated Authority from
Dina Palozzi
Superintendent of Financial Services

IN THE MATTER OF the Pension Benefits *Act* R.S.O. 1990, c. P.8, as amended (the *"Act"*);

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Act*, respecting **the Revised Employees' Pension Plan of the Employer, Registration No. 389114;**

TO: **Canada Life Assurance Company**
330 University Avenue
Toronto, ON
M5G 1R8

Attention: Milica Stojsin
Plan Wind-up Specialist
Administrator of the Revised Employees' Pension Plan of the Employer

AND TO: **Listowel Transport Lines Limited**
P.O. Box 390
Gore Bay, ON
P0P 1H0

AND TO: **Canada-Jet Transportation, a division of Canada Transport Group Limited**
200 Jamieson Bone Road
P.O. Box 1450
Belleville, ON
K8N 5J7
Employer

Order

ON the 16th day of January, 2001, I issued a **Notice of Proposal to make an Order** dated the 9th day of January, 2001, pursuant to subsection 69(1) of the *Act*, to the Administrator and to the Employer to wind up in whole **the Revised Employees' Pension Plan of the Employer, Registration No. 389114** (the "Plan"), effective the 28th day of March, 1992.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal, (the "Tribunal"), by the Administrator and/or the Employer within the time prescribed by subsection 89(6) of the *Act*.

IT IS THEREFORE HEREBY ORDERED that **the Revised Employees' Pension Plan of the Employer, Registration No. 389114** be wound up in whole effective the 28th day of March, 1992, for the following reason:

There was a cessation or suspension of employer contributions to the pension fund.

DATED at Toronto, Ontario this 26th day of March, 2001.

K. David Gordon
Director, Pension Plans Branch
by Delegated Authority from
Dina Palozzi
Superintendent of Financial Services
21773

IN THE MATTER OF the Pension Benefits *Act* R.S.O. 1990, c. P.8, as amended (the *"Act"*);

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Act*, respecting **the Employees' Pension Plan for Employees of Listowel Transport Line Limited & J.E. Transport Limited, Registration No. 566232;**

TO: **Canada Life Assurance Company**
330 University Avenue
Toronto, ON
M5G 1R8

Attention: Milica Stojsin
Plan Wind-up Specialist
Administrator of the Employees' Pension Plan for Employees of Listowel Transport Line Limited & J.E. Transport Limited

AND TO: **Listowel Transport Lines Limited**
P.O. Box 390
Gore Bay, ON
P0P 1H0

AND TO: **Canada-Jet Transportation, a division of Canada**
Transport Group Limited
200 Jamieson Bone Road
P.O. Box 1450
Belleville, ON
K8N 5J7
Employer

Order

ON the 16th day of January, 2001, I issued a **Notice of Proposal to make an Order** dated the 9th day of January, 2001, pursuant to subsection 69(1) of the *Act*, to the Administrator and to the Employer to wind up in whole **the Employees' Pension Plan for Employees of Listowel Transport Line Limited & J.E. Transport Limited, Registration No. 566232** (the "Plan") effective the 28th day of March, 1992.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal, (the "Tribunal"), by the Administrator and/or the Employer within the time prescribed by subsection 89(6) of the *Act*.

IT IS THEREFORE HEREBY ORDERED that **the Employees' Pension Plan for Employees of Listowel Transport Line Limited & J.E. Transport Limited, Registration No. 566232** be wound up in whole effective the 28th day of March, 1992, for the following reason:

There was a cessation or suspension of employer contributions to the pension fund.

DATED at Toronto, Ontario this 21st day of March, 2001.

K. David Gordon
Director, Pension Plans Branch
by Delegated Authority from
Dina Palozzi
Superintendent of Financial Services
21774

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 69 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, respecting the **Pension Plan for Employees of JPE Canada Inc. who are Members of C.A.W. Locals 1524 and 1987 (formerly known as the Pension Plan for Employees of Pebra Inc. who are members of C.A.W. Locals 1524 and 1987), Registration No. 694570;**

TO: **PricewaterhouseCoopers Limited**
Suite 1100
One Robert Speck Parkway
Mississauga, ON
L4Z 3M3

Attention: Lois Reyes
Senior Counsel
Administrator

AND TO: **JPE Canada Inc.**
775 Technology Drive
P.O. Box 660
Peterborough, ON
K9J 6Z8

Attention: Robert Tock
Controller
Employer

Order

ON the 6th day of March, 2001, I issued a **Notice of Proposal to make an Order** dated the 2nd day of March, 2001, pursuant to subsection 69(1) of the *Act*, to the Administrator and to the Employer to wind up in whole the **Pension Plan for Employees of JPE Canada Inc. who are Members of C.A.W. Locals 1524 and 1987 (formerly known as the Pension Plan for Employees of Pebra Inc. who are members of C.A.W. Locals 1524 and 1987), Registration No. 694570** (the "Plan") effective the 9th day of February, 1999.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal, (the "Tribunal"), by the Administrator and/or the Employer within the time prescribed by subsection 89(6) of the *Act*.

IT IS THEREFORE HEREBY ORDERED that the **Pension Plan for Employees of JPE Canada Inc. who are Members of C.A.W. Locals 1524 and 1987 (formerly known as the Pension Plan for Employees of Pebra Inc. who are members of C.A.W. Locals 1524 and 1987), Registration No. 694570** be wound up in whole effective the 9th day of February, 1999, for the following reasons:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the Bankruptcy and Insolvency *Act* (Canada), R.S. 1985, c.B-3, as amended.
3. A significant number of members of the Plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

PURSUANT TO subsection 69(2) of the *Act*, the Administrator is required to give notice of this Order to the following persons by transmitting a copy hereof:

C.A.W. Local 1524
600 Wabanaki Drive
Kitchener, ON
N2C 2K4
Attention: David Bailey
President
Union

C.A.W. Local 1987
654 Rogers Street
Peterborough, ON
K9H 1Y2
Attention: Ms. Rose Forrestall
President
Union

C.A.W. Canada
205 Placer Court
North York, ON
M2H 3H9
Attention: Tom Murphy
National Representative
Union

Grant Thornton Limited
Royal Bank Plaza
19th Floor, South Tower
200 Bay Street
Box 55
Toronto, ON
M5J 2P9
Attention: Andrea Orr
Interim Receiver and Trustee in Bankruptcy for JPE Canada Inc.

DATED at Toronto, Ontario this 4th day of June, 2001.

K. David Gordon
Director, Pension Plans Branch
by Delegated Authority from
Dina Palozzi
Superintendent of Financial Services

Consents to Payments of surplus out of Wound Up Pension Plans

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **AM International Inc. Pension Plan (1979), Registration No. 0202044;**

TO: **PricewaterhouseCoopers Inc.**
c/o Ayesworth Thompson Phelan O'Brien LLP
P.O. Box 15 Suite 3000
Royal Bank Plaza, South Tower
Toronto, ON
M5J 2J1

Attention: Peter R. Welsh
Applicant

Consent

ON or about March 9, 2001 the Superintendent of Financial Services caused to be served on PricewaterhouseCoopers Inc. a Notice of Proposal dated March 8, 2001 to consent, pursuant to subsection 78(1) of the *Act*, to payment out of the AM International Inc. Pension Plan (1979), Registration No. 0202044 (the "Plan") to PricewaterhouseCoopers Inc., in the amount of $1,506,541as at August 31, 2000 plus interest earnings to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the AM International Inc. Pension Plan (1979), Registration No. 0202044 of $1,506,541 as at August 31, 2000 plus interest earnings to the date of payment to PricewaterhouseCoopers Inc.

DATED at Toronto, Ontario, this 11th day of May, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from
Dina Palozzi
Superintendent of Financial Services

cc: Marcel Theroux, William M. Mercer Limited

cc: Susan Rowland, Andrew Hatnay, Koskie Minsky

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Retirement Plan for the Employees of Gas Technology Canada, Registration No. 1040336;**

TO: **Gas Technology Canada**
243 Consumers Road, Suite 1200
North York, ON
M2J 5E2

Attention: Dr. Inge Hansson
President
Applicant and Employer

Consent

ON or about March 20, 2001 the Superintendent of Financial Services caused to be served on Gas Technology Canada a Notice of Proposal dated March 19, 2001, to consent, pursuant to subsection 78(1) of the *Act*, to payment out of the Retirement Plan for the Employees of Gas Technology Canada, Registration No. 1040336 (the "Plan"), to Gas Technology Canada, in the amount of approximately $6,300 as at August 21, 1998 plus investment earnings thereon to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Retirement Plan for the Employees of Gas Technology Canada, Registration No. 1040336 of approximately $6,300 as at August 21, 1998 plus investment earnings thereon to the date of payment, to Gas Technology Canada.

DATED at Toronto, Ontario, this 23rd day of April, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from

Dina Palozzi
Superintendent of Financial Services

c.c. Mr. Robert R. Coyle, The Standard Life Assurance Company

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Dibrell Brothers of Canada Pension Plan for Local 341-T Employees, Registration No. C-18014;**

TO: **DIMON Incorporated**
512 Bridge Street
Danville, Virginia
24543-0681
U.S.A.

Attention: John O. Hunnicutt III
Vice President, Administration
Applicant and Employer

Consent

ON or about May 23, 2001 the Superintendent of Financial Services caused to be served on DIMON Incorporated a Notice of Proposal dated May 17, 2001 to consent, pursuant to subsection 78(4) of the *Act*, to payment out of the Dibrell Brothers of Canada Pension Plan for Local 341-T Employees, Registration No. C-18014 (the "Plan"), to DIMON Incorporated in the amount of $42,000 plus interest at the fund rate of return since the dates of payment of the Plan's wind up expenses.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Dibrell Brothers of Canada Pension Plan for Local 341-T Employees, Registration No. C-18014, of $42,000 plus interest at the fund rate of return since the dates of payment of the Plan's wind up expenses, to DIMON Incorporated.

DATED at Toronto, Ontario, this 26th day of June, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from

Dina Palozzi
Superintendent of Financial Services
c.c. Priscilla Healy, Towers Perrin

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the Financial Services Commission of Ontario *Act*, 1997, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Dibrell Brothers of Canada Pension Plan for Non-Union Employees, Registration No. C-18015;**

TO: **DIMON Incorporated**
512 Bridge Street
Danville, Virginia
24543-0681
U.S.A.

Attention: John O. Hunnicutt III
Vice President, Administration
Applicant and Employer

Consent

ON or about May 23, 2001, the Superintendent of Financial Services caused to be served on DIMON Incorporated a Notice of Proposal dated May 17, 2001, to consent, pursuant to subsection 78(4) of the *Act*, to payment out of the Dibrell Brothers of Canada Pension Plan for Non-Union Employees, Registration No. C-18015 (the "Plan"), to DIMON Incorporated, in the amount of $51,000 plus interest at the fund rate of return since the dates of payment of the Plan's wind up expenses.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Dibrell Brothers of Canada Pension Plan for Non-Union Employees, Registration No. C-18015 of $51,000 plus interest at the fund rate of return since the dates of payment of the Plan's wind up expenses to DIMON Incorporated.

DATED at Toronto, Ontario, this 26th day of June, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from
Dina Palozzi
Superintendent of Financial Services
c.c. Priscilla Healy, Towers Perrin

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Retirement Plan for Employees of D.C. Heath Canada Ltd., Registration No. 0356444;**

TO: **D.C. Heath Canada, Ltd.**
c/o Houghton Mifflin Company
222 Berkeley Street
Boston, MA
U.S.A.
02116-3764

Attention: Elizabeth L. Hacking
President
Applicant and Employer

Consent

ON or about January 15, 2001, the Superintendent of Financial Services caused to be served on Ms. Elizabeth L. Hacking a Notice of Proposal dated January 9, 2001, to consent, pursuant to subsection 78(1) of the *Act*, to payment out of the Retirement Plan for Employees of D.C. Heath Canada, Ltd., Registration No. 0356444 (the "Plan"), to D.C. Heath Canada, Ltd. in the amount equal to 25% of the net surplus on the date of final distribution of the Plan assets; that is, the amount of surplus remaining in the Plan fund after taking into account the investment earnings realized on, and the expenses paid from, the fund since the effective date of Wind-up. As at May 31, 1996, total surplus equalled $595,449.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Retirement Plan for Employees of D.C. Heath Canada, Ltd., Registration No. 0356444, of 25% of the net surplus on the date of final distribution of the Plan assets to D.C. Heath Canada, Ltd.; that is, the amount of surplus remaining in the Plan fund after taking into account the investment earnings realized on, and the expenses paid from, the fund since the effective date of Wind-up. As at May 31, 1996, total surplus equalled $595,449.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that all benefits, benefit enhancements (including benefits and benefit enhancements, pursuant to the Surplus Distribution Agreement) and any other payments to which the members, former members, and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

DATED at Toronto, Ontario, this 16th day of March, 2000.

K. David Gordon
Director
Pension plans Branch
by delegated authority from
Dina Palozzi
Superintendent of Financial Services
c.c. James Carter, William M. Mercer Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Kamana Holdings Inc. Executive Pension Plan, Registration No. 407601;**

TO: **Kamana Holdings Inc.**
30 Margaret Street
St. Thomas, ON
N5R 3H7

Attention: Mrs. Barbara Louis Ferriman
Applicant

Consent

ON or about March 28, 2001, the Superintendent of Financial Services caused to be served on Kamana Holdings Inc. a Notice of Proposal dated March 27, 2001, to consent, pursuant to subsection 78(1) of the *Act*, to payment out of the Kamana Holdings Inc. Executive Pension Plan, Registration No. 407601, to Kamana Holdings Inc. in the amount of $150,000 as at December 1, 1999, plus investment earnings thereon to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Kamana Holdings Inc. Executive Pension Plan, Registration No. 407601, of $150,000 as at December 1, 1999, plus investment earnings thereon to the date of payment to Kamana Holdings Inc.

DATED at Toronto, Ontario, this 3rd day of May, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from

Dina Palozzi
Superintendent of Financial Services
c.c. Mr. W.K. Simon, William M. Mercer Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Pension Plan for Employees of Frank Mauro Construction Limited, Registration No. 409474;**

TO: **Frank Mauro Construction Limited**
c/o Mr. Don Jackett
McColl Turner and Company
362 Queen Street
Peterborough, ON
K9H 3J6

Attention: Mr. Frank Mauro
Applicant

Consent

ON or about March 26, 2001, the Superintendent of Financial Services caused to be served on Frank Mauro Construction Limited a Notice of Proposal dated March 26, 2001, to consent, pursuant to subsection 78(1) of the *Act*, to payment out of the Pension Plan for Employees of Frank Mauro Construction Limited, Registration No. 409474 to Frank Mauro Construction Limited, in the amount of $28,400 as at December 31, 1998, plus investment earnings thereon to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Pension Plan for Employees of Frank Mauro Construction Limited, Registration No. 409474, of $28,400 as at December 31, 1998, plus investment earnings thereon to the date of payment to Frank Mauro Construction Limited.

DATED at Toronto, Ontario, this 3rd day of May, 2001.
K. David Gordon
Director
Pension plans Branch
by delegated authority from

Dina Palozzi
Superintendent of Financial Services
c.c. Ms. Donna Wolfe, Cowan Wright Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Retirement Plan for the Employees of Furnas Electric Company, Registration No. 532234;**

TO: **Siemens Canada Limited**
Applicant
c/o Ms. Farida Samji
William M. Mercer Limited
BCE Place
161 Bay Street, P.O. Box 501
Toronto, ON
M5J 2S5

Consent

ON or about April 17, 2001, the Superintendent of Financial Services caused to be served on Siemens Canada Limited a Notice of Proposal dated April 11, 2001, to consent, pursuant to subsection 78(1) of the *Act*, to payment out of the Retirement Plan for the Employees of Furnas Electric Company, Registration No. 532234, to Siemens Canada Limited in the amount equal to 50% of the net surplus, after taking into account the investment earnings realized and expenses incurred to the date of surplus payment. The plan had a surplus of $218,822 as at September 30, 1996, the effective date of the wind up.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Retirement Plan for the Employees of Furnas Electric Company, Registration No. 532234, to Siemens Canada Limited in the amount equal to 50% of the net surplus, after taking into account the investment earnings realized and expenses incurred to the date of surplus payment. The plan had a surplus of $218,822 as at September 30, 1996, the effective date of the wind up.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that all benefits and other payments, including any enhancements arising from the surplus sharing agreement, to which members, former members and any other persons are entitled on the termination of the pension plan have been paid or provided for by the administrator of the pension plan.

DATED at Toronto, Ontario, this 13th day of June, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from
Dina Palozzi
Superintendent of Financial Services

c.c. Mr. John Mole, Siemens Canada Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Retirement Plan for Rene Malette of Malette Inc., Registration No. 967752;**

TO: **Malette Inc.**
C.P./P.O. Box 1100
Timmins, ON
P4N 7H9

Attention: Mr. Fern E. Boileau
Group Pension Administrator
Applicant and Employer

Consent

ON or about November 23, 2000, the Superintendent of Financial Services caused to be served on Malette Inc. a Notice of Proposal dated November 20, 2000, to consent, pursuant to subsection 78(1) of the *Act*, to payment out of the Retirement Plan for Rene Malette of Malette Inc., Registration No. 967752 (the "Plan"), to Malette Inc. in the amount of $74,715 as at May 31, 1999, plus investment income and net of fees and expenses.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Retirement Plan for Rene Malette of Malette Inc., Registration No.967752, of $74,715 as at May 31, 1999, plus investment income and net of fees and expenses to Malette Inc.

DATED at Toronto, Ontario, this lst day of March, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from
Dina Palozzi
Superintendent of Financial Services

c.c. Farida Samji, William M. Mercer Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Pension Plan for Unionized Employees of Flexia Corporation at Brantford, Registration No. 980037;**

TO: **Flexia Corporation**
369 Elgin Street
Brantford, ON
N3S 7P5

Attention: Mr. Duncan Fletcher
Chief Financial
Applicant

Consent

ON or about May 22, 2001, the Superintendent of Financial Services caused to be served on Flexia Corporation a Notice of Proposal dated May 17, 2001, to consent, pursuant to subsection 78(4) of the *Act*, to payment out of The Pension Plan for Unionized Employees of Flexia Corporation, Registration No. 980037, to Flexia Corporation, in the amount of $130,115.31 as at December 27, 2000, plus investment earnings thereon to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the The Pension Plan for Unionized Employees of Flexia Corporation, Registration No. 980037, to Flexia Corporation, in the amount of $130,115.31 as at December 27, 2000, plus investment earnings thereon to the date of payment.

DATED at Toronto, Ontario, this 29th day of June, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from
Dina Palozzi
Superintendent of Financial Services

c.c. Mr. Chris T. Tomev, F.S.A., Avalon Actuarial Consulting Inc.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the **Pension Plan for Non-Union Salaried Employees of MAN Roland Canada Inc., Registration No. 988808;**

TO: **MAN Roland Canada Inc.**
800 East Oak Hill Drive
Westmont IL 60559
U.S.A.

Attention: Barbara Pala
Director, Human Resources

Consent

ON or about December 28, 2000, the Superintendent of Financial Services caused to be served on MAN Roland Canada Inc., a Notice of Proposal dated December 21, 2000 to consent, pursuant to subsection 78(4) of the *Act*, to payment out of the Pension Plan for Non-Union Salaried Employees of MAN Roland Canada Inc., Registration No.988808, to MAN Roland Canada Inc. in the amount of $32,000.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Pension Plan for Non-Union Salaried Employees of MAN Roland Canada Inc., Registration No. 988808, of $32,000 to MAN Roland Canada Inc.

DATED at Toronto, Ontario, this 19th day of March, 2001.

K. David Gordon
Director
Pension plans Branch
by delegated authority from
Dina Palozzi
Superintendent of Financial Services

c.c. Nathalie Cardinal, Hewitt Associates

Declaration That the Pension Benefits Guarantee Fund Applies To Pension Plans - Subsection 83(1) of the PBA

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the Financial Services Commission of Ontario *Act*, 1997, S.O. 1997, c. 28 respecting the **Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Salaried Non-Managerial Non-Unionized Employees), Registration No. 597948**;

TO: **Ernst & Young Inc.**
222 Bay Street
P. O. Box 251
Toronto-Dominion Centre
Toronto, ON
M5K 1J7

Attention: Felix Hsu
Manager
Administrator of the Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Salaried Non-Managerial Non-Unionized Employees)

AND TO: **Forest City International Trucks Ltd.**
3003 Page Street
London,ON
N5V 4J1

Attention: John Parliament
Controller
Employer

Declaration

WHEREAS:

1. The Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Salaried Non-Managerial Non-Unionized Employees), Registration No. 597948 (the "Pension Plan"), is registered under the Pension Benefits *Act*, R.S.O. 1990, c. P.8 as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the *"Act"*) and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "PBGF") by the *Act* or the regulations made thereunder; and
3. The Pension Plan was wound up effective May 25, 1991; and
4. The Superintendent of Pensions appointed Ernst & Young Inc. as the administrator (the "Administrator") of the Pension Plan on February 5th, 1992.
5. On March 26, 2001, I signed and issued a Notice of Proposal to make a Declaration that the PBGF applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the *Act*, has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the *Act*, that the PBGF applies to the Pension Plan for the following reasons:

1. The Wind Up Report and the Application for a Declaration and an Allocation against the PBGF, filed by the Administrator indicate an estimated funding deficiency of $76,408.00 as at May 25, 1991, and an estimated claim against the Guarantee Fund as at September 30, 2000, of $192,728.00.
2. On May 25, 1991, Forest City International Trucks Ltd. was assigned into bankruptcy.
3. The trustee in bankruptcy of Forest City International Trucks Ltd. had advised the Administrator that there were no assets available for the Pension Plan. The trustee was discharged in October, 1993.

DATED at Toronto, Ontario, this 23rd day of May, 2001.

K. David Gordon
Director, Pension Plans Branch
by delegated authority from
Dina Palozzi
Chief Executive Officer and
Superintendent of Financial Services

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28, respecting the Pension Plan for **Unionized Employees of Northern Globe Materials, Inc. (Brantford Division), (the "Pension Plan"), Registration No. 680421**;

TO: **Arthur Andersen Inc.**
4 King Street West
Suite 1050
Toronto, ON
M5H 1B6

Attention: Lawrence A. Contant
Administrator of the Pension Plan for Unionized Employees of Northern Globe Materials, Inc. (Brantford Division)

AND TO: **Globe Building Materials Inc.**
2230 Indianapolis Blvd.
Whiting IN 46394

Attention: John F. Dombrow
Director, Human Resources
Employer

AND TO: **United Steelworkers of America**
District 6
1031 Barton Street East
Hamilton, ON
L8L 3E3

Attention: Bryan Adamczyk
Collective Bargaining Agents

AND TO: **A. Farber & Partners Inc.**
1200 Sheppard Avenue East
Suite 300
North York, ON
M2K 2R8

Attention: Allan Nackan
Trustee in Bankruptcy for Northern Globe Building Materials, Inc.

Declaration

WHEREAS:

1. The Pension Plan for Unionized Employees of Northern Globe Materials, Inc., (Brantford Division), Registration No. 680421 (the "Pension Plan"), is registered under the Pension Benefits *Act*, R.S.O. 1990, c. P.8 as amended by the *Financial Services Commission of Ontario Act*, 1997 S.O. 1997, c. 28 (the "*Act*") and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "PBGF") by the *Act* or the regulations made thereunder; and
3. The Pension Plan was wound up effective November 16, 1995; and
4. The Superintendent of Pensions appointed Arthur Andersen Inc. as the administrator (the "Administrator") of the Pension Plan on May 29, 1996; and
5. On January 26, 2001, I issued a Notice of Proposal dated January 25, 2001, to make a Declaration that the PBGF applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89(6) of the *Act*, has been received.

NOW THEREFORE TAKE NOTICE I declare, pursuant to section 83 of the *Act*, that the PBGF applies to the Pension Plan for the following reasons:

1. The Wind Up Report filed by the Administrator indicates an estimated funding deficiency of $103,353.20 as at November 16, 1995.
2. On November 16, 1995, Northern Globe Materials Inc., was assigned into bankruptcy.
3. The trustee in bankruptcy of Northern Globe Materials Inc., has advised the Administrator that there are no assets available for the Pension Plan.
4. The Administrator advised that it is of the opinion that there are reasonable and probable grounds for concluding that the funding requirements of the *Act* and Regulation cannot be satisfied.

DATED at Toronto, Ontario, this 9th day of April, 2001.

K. David Gordon
Director, Pension Plans Branch
By Delegated Authority from
Dina Palozzi
Chief Executive Officer and
Superintendent of Financial Services

Allocations of Money From the Pension Benefits Guarantee Fund - Subsection 34 (7) of Regulation 909

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the Pension Benefits *Act*, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28, respecting the **Pension Plan for Salaried Employees of Frink Environmental Inc. and Hamilton Gear Inc. (the "Pension Plan"), Registration No. 337691;**

TO: **PricewaterhouseCoopers Inc.**
Suite 1100
One Robert Speck Parkway
Mississauga, ON
L4Z 3M3

Attention: Paul Macphail
Administrator of the Pension Plan for Salaried Employees of Frink Environmental Inc. and Hamilton Gear Inc.

Allocation

WHEREAS on the 18th day of January, 2001, I declared, pursuant to sections 83 and 89 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the *"Act"*), that the Pension Benefits Guarantee Fund (the "PBGF") applies to the Pension Plan for Salaried Employees of Frink Environmental Inc. and Hamilton Gear Inc., Registration No. C-337691 (the "Pension Plan");

NOW THEREFORE, I shall allocate from the PBGF and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the *Act* (the "Regulation"), an amount not to exceed $1,014,769.00, to provide together with the Ontario assets, for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the PBGF but not required to provide such benefits shall be returned to the PBGF.

DATED at Toronto, Ontario, this 26th day of February, 2001.

Dina Palozzi
Chief Executive Officer and
Superintendent of Financial Services

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28;

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28, respecting the **Pension Plan for Employees of Income Trust Company, Registration No. 056[illegible]5;**

TO: **Arthur Andersen Inc.**
4 King Street West
Suite 1050
Toronto, ON
M5H 1B6

Attention: Mr. David Kearney
Administrator of the Pension Plan for Employees of Income Trust Company, Registration No. 0560235.

Revised Allocation

WHEREAS on the 19th day of July, 2000, I declared, pursuant to sections 83 and 89 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8 as amended by the *Financial Services Commission of Ontario Act, 1997*, S. O. 1997, c. 28 (the *"Act"*), that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan for Employees of Income Trust Company, Registration No. 0560235 (the "Pension Plan"); and

WHEREAS on the 19th day of July, 2000, I allocated from the Guarantee Fund for payment to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the *Act* (the "Regulation"), an amount not to exceed $460,900.00 to provide, together with the Ontario assets for the benefits determined in accordance with section 34 of the Regulation; and

WHEREAS, the administrator of the plan has found it necessary to revise the amount of the allocation requested from the said $460,900.00 to an amount of $589,200.00, determined as at February 28, 2001;

NOW THEREFORE, I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the *Act* (the "Regulation"), a revised amount not to exceed $589,200.00 to provide, together with the Ontario assets for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the Guarantee Fund but not required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 3rd day of May, 2001.

Dina Palozzi
Chief Executive Officer
and Superintendent of Financial Services

TRIBUNAL ACTIVITIES

Appointments of Financial Services Tribunal Board Members

Name and O.C.	Effective Appointment Date	Expiry Date
Milczynski, Martha (Chair)		
O.C. 1622/2001	June 20, 2001	June 19, 2004
O.C. 1665/99	October 6, 1999	July 7, 2001
O.C. 1808/98	July 8, 1998	October 6, 1999
McNairn, Colin (Vice-Chair)		
O.C. 1623/2001	June 20, 2001	June 19, 2004**
O.C. 1809/98	July 8, 1998	July 7, 2001
Bush, Kathryn M. (Vice-Chair)		
O.C. 1052/2000	May 31, 2000	May 30, 2002**
O.C. 1666/99	October 6, 1999	June 16, 2000
O.C. 1191/99	June 17, 1999	October 6, 1999
O.C. 904/97	May 14, 1997	June 16, 1999
Corbett, Anne		
O.C. 1438/2001	June 19, 2004**	June 20, 2001
Erlichman, Louis		
O.C. 2527/98	December 9, 1998	December 8, 2001
O.C. 1592/98	June 17, 1998	December 16, 1998
Forbes, William M.		
O.C. 1624/2001	June 20, 2001	June 19, 2002**
O.C. 520/98	March 25, 1998	March 24, 2001
Gavin, Heather		
O.C. 11/99	January 13, 1999	January 12, 2002
Greville, M. Elizabeth		
O.C. 222/99	January 27, 1999	January 26, 2002
O.C. 2405/95	February 8, 1996	February 7, 1999
Martin, Joseph P.		
O.C. 1626/2001	June 20, 2001	June 19, 2004**
O.C. 1810/98	July 8, 1998	July 7, 2001
Moore, C.S. (Kit)		
O.C. 1625/2001	June 20, 2001	June 19, 2004**
O.C. 1591/98	July 1, 1998	June 30, 2001
Stephenson, Joyce Anne		
O.C. 2409/98	November 4, 1998	November 3, 2001
O.C. 1930/95	October 28, 1995	October 27, 1998
Wires, David E.		
O.C. 2166/99	February 26, 2000	February 25, 2003
O.C. 257/97	February 27, 1997	February 26, 2000

**Or on the day FSCO/OSC merges, if earlier

Pension Hearings Before the Financial Services Tribunal

Brewers Retail Pension Plan for Bargaining Unit Employees, Registration No. 336081, FST File No. P0099-2000;

On February 24, 2000, Mr. Patrick J. Moore, President of the United Brewers' Warehousing Workers, Local 375W, requested a hearing seeking an Order directing "the Superintendent to order the administrator of the Plan (Brewers Retail Inc.) to cease administering the Plan with an improperly constituted advisory committee and to cause the creation of a properly constituted advisory committee pursuant to the *Act* and formulating documents." The hearing request arose as a result of a letter from the Superintendent dated January 26, 2000, in which the Superintendent stated that there were no grounds under the *Pension Benefits Act* and Plan to order the establishment of an advisory committee. The letter also stated that any issue that Mr. Moore may have with the letter of understanding, which is part of the agreement between Brewers Retail Inc. and United Food and Commercial Workers Provincial Board (the "UBWW/UFCW"), wherein Brewers Retail Inc. acknowledges that the UBWW/UFCW has a right to appoint a pension committee with membership, roles and responsibilities as set out in the *Pension Benefits Act*, would be a labour issue and not within the Superintendent's jurisdiction.

At a pre-hearing conference held on May 17, 2000, Brewers Retail Inc. and the UBWW/UFCW were granted full party status. At the pre-hearing conference the parties agreed that before the Financial Services Tribunal considered the matter on its merits, it was necessary for it to determine the preliminary issue of whether it had jurisdiction to grant the relief sought in Mr. Moore's Request for Hearing. At the pre-hearing conference, the Superintendent raised the issue of whether notice to former members of the Plan ought to be provided as it appeared that former members of the Plan were not represented.

In a telephone conference held on November 16, 2000, the hearing on the notice issue was scheduled for March 7, 2001. The hearing on the jurisdictional issue was scheduled for September 28, 2001.

On March 7, 2001, the Tribunal decided that former members had received adequate notice of the proceeding through the existing parties to the proceeding. The written reasons for Decision dated April 10, 2001, are published in this Bulletin at page 125.

London Life Insurance Company Staff Pension Plan, Registration No. 0343368, FST File No. P0100-2000;

On March 6, 2000, London Life Insurance Company requested a hearing with respect to the Superintendent's Notice of Proposal dated February 17, 2000, proposing to order that the Plan be wound up in part in relation to those members and former members of the Plan who were employed by London Life and who ceased to be employed effective between January 1, 1996 and December 31, 1996, as a result of (i) the reorganization of the business of London Life, or (ii) the discontinuance of all or a significant portion of the business carried on by London Life at one or more specific locations.

At the pre-hearing conference held on July 11, 2000, the Executive Members of the London Life Members' Committee were granted full

party status. Upon a request made by London Life that all information produced by it in response to interrogatories and to a request for disclosure of documents from other parties be kept confidential, the Tribunal issued an Order dated July 25, 2000, which was published in Volume 10, Issue 1 of the Pension Bulletin.

The Executive Members of the London Life Members' Committee brought a motion before the Tribunal on August 29, 2000, requesting an order directing London Life to disclose certain information to them and to the Superintendent. The Tribunal's Order on the motion and the Reasons for Order, both dated September 18, 2000, were published in Volume 10, Issue 1 of the Pension Bulletin.

The hearing was held on December 11 - 15 and December 19 - 20, 2000. Reasons for Decision dated February 7, 2001, were released and are published in Volume 10, Issue 1 of the Pension Bulletin.

The Superintendent and the Executive Members filed a Request for Review, asking the panel to deal with the issues that had not been addressed in the Reasons for Decision. On April 18, 2001, the panel issued its Disposition of Request for Review, which is published in this Pension Bulletin at page 129, declining to review its Reasons for Decision.

An application for an order of costs against London Life was made by the Executive Members. That application was dismissed by the panel. Its Decision on Request for Costs dated June 6, 2001, is published in this Pension Bulletin on page 132.

Ontario Public Service Pension Plan, Registration No. 208777, FST File No. P0116-2000;

On August 2, 2000, the Ontario Pension Board filed a request for hearing in respect of the Superintendent's Notice of Proposal dated July 12, 2000, ordering the Ontario Pension Board to pay Mr. Victor Burns his full pension benefits, with interest payable pursuant to subsection 24(11) of Regulation 909 made under the *Pension Benefits Act*, retroactive to the date of Mr. Burns' retirement from the Ontario Provincial Police ("OPP"), within 60 days from the date of the Order, and on an ongoing basis.

An Application for party status was filed by Victor Burns on November 9, 2000, and full party status was granted by the Financial Services Tribunal at a pre-hearing conference held on November 23, 2000.

The hearing is scheduled for October 15 and 16, 2001.

David Horgan (Ontario Public Service Pension Plan, Registration No. 208777), FST File No. P0120-2000;

On August 11, 2000, David Horgan requested a hearing regarding the Superintendent's Notice of Proposal dated July 12, 2000, proposing to refuse to make an order under section 87 of the *Pension Benefits Act*, with respect to Mr. Horgan's claim that he is entitled to receive pension benefits from the Plan.

The Ontario Pension Board filed an Application for party status on September 19, 2000 and was granted full party status at the pre-hearing conference held on November 23, 2000. The hearing was held July 11, 2001.

Rupinder Anand and OPSEU Pension Trust:

On February 6, 2001, Rupinder Anand requested that a hearing regarding the Superintendent's Notice of Proposal dated January 4, 2001, proposing to refuse to make an order under section 87 of the *Pension*

Benefits Act, with respect to Mr. Anand's claim that he is eligible to receive pension benefits from the Ontario Public Service Pension Plan.

The OPSEU Pension Trust ("OPT") filed an application for party status on February 14, 2001. Counsel for Mr. Anand (who is also counsel for Mr. Horgan) requested that the hearing in this matter be joined with the hearing in Horgan, as the issues in both cases were virtually identical. None of the other parties objected to the joinder. An order granting OPT party status and joining the hearings, in the Horgan and Anand matters, to be heard concurrently, was signed by the Financial Services Tribunal on March 7, 2001.

The hearing was held July 11, 2001.

Imperial Oil Ltd., FST File No. P0130-2000;

On October 31, 2000, Imperial Oil Limited requested a hearing with respect to the Superintendent's Notice of Proposal dated October 3, 2000, proposing to refuse to approve a partial wind up report in respect of two Plans of which Imperial Oil is the Administrator.

The stated reasons for the proposed refusal include the failure of each wind up report to do the following: (a) reflect the liabilities associated with all of the members of the Plan whose employment was terminated by Imperial Oil during the wind-up period; (b) apply the grow-in provisions of section 74 of the *Pension Benefits Act* in a proper manner; (c) provide benefits in accordance with elections made, as required under subsection 72(1) of the *Pension Benefits Act*, among various options including those available as a result of partial wind up; and (d) provide for the distribution of assets related to the partial wind up group.

A pre-hearing conference was held on June 19, 2001. At the pre-hearing conference, the Superintendent agreed to amend the Notice of Proposal in this matter to delete reference to (d) above.

A date for hearing and preliminary motion with respect to answers to interrogatories has been scheduled for July 25, 2001.

Marshall-Barwick (formerly Marshall Steel Limited), Registration No. 0968081, FST File No. P150-2001;

On January 16, 2001, Marshall-Barwick Inc. (formerly Marshall Steel Limited) requested a hearing in respect of the Superintendent's Notice of Proposal dated December 12, 2000. The Superintendent is proposing to Refuse to Approve a Partial Wind Up Report as at August 28, 1992, respecting the Retirement Plan for Salaried Employees of Marshall Steel Limited and Associated Companies in relation to employees who ceased to be employed by Marshall Steel Limited as a result of the closure of its plant in Milton, Ontario. The Superintendent's basis for the Notice of Proposal is that the Report does not protect the interests of all those affected by the partial wind-up, specifically, Mr. Jeffrey G. Marshall, an employee who was terminated during the wind-up period. On June 4, 2001, Jeffrey G. Marshall applied for party status.

A pre-hearing conference is scheduled for August 13, 2001.

National Steel Car Limited, Registration Nos. 0215020 and 0215038, FST File No. P154-2001;

On March 7, 2001, representatives for members of the Pension Plan for Salaried Employees of National Steel Car Limited requested a hearing regarding the Superintendent's consent to the

transfer of all of the assets of the Pension Plan for Salaried Employees of National Steel Car Limited to the Pension Plan for Hourly-Paid Employees of National Steel Car Limited. The Salaried Plan is in a surplus position and the Hourly-Paid Plan has an unfunded liability.

Applications for party status were filed on behalf of National Steel Car Limited and certain representatives of the United Steel Workers of America, Local 7135, on behalf of the members of the Hourly-Paid Plan. The two applicants for party status were joined as parties by order at the pre-hearing conference held on June 21, 2001. The main issues in this case are whether the Tribunal has the jurisdiction to entertain the applicant's request for a hearing and whether the Superintendent's consent to the transfer of assets should be set aside or varied.

A Settlement Conference is scheduled for September 24, 2001.

Independent Order of Foresters Fieldworkers, Registration No. 0354399, FST File No. P155-2001;

On August 12, 2001, the Independent Order of Foresters requested a hearing with respect to the Superintendent's Notice of Proposal dated March 19, 2001, to Refuse to Consent to an application for the payment of the surplus of the IOF Fieldworkers Pension Plan to the employer. The Superintendent proposed to refuse consent on the basis that she was not satisfied that the Plan had a surplus and that the Plan provides for the payment of any surplus to the employer on the wind up of the Plan.

A pre-hearing conference was held on July 4, 2001. A settlement conference is scheduled for November 13, 2001.

Cooper Industries (Canada) Inc., Registration No. 0240622, FST File No. P156-2001;

On April 17, 2001, Cooper Industries (Canada) Inc. requested a hearing with respect to the Superintendent's Notice of Proposal dated March 8, 2001, to Refuse to Approve a Partial Wind Up Report, prepared in November 1999, in relation to the partial wind up of the Retirement Plan for Salaried Employees of Cooper Canada – Plan A, Registration No. 240622, as at March 30, 1992, in relation to employees at the Port Hope location of Cooper Industries (Canada) Inc. and to make an Order requiring Cooper Industries (Canada) Inc. to refrain from using and to preserve for distribution that portion of the surplus of the Plan attributable to the Port Hope location. The basis for the Notice of Proposal was that the Partial Wind-Up Report proposed that the surplus assets of the Plan attributable to the Port Hope location be retained for continuing application toward future current service contributions for the Plan's continuing membership and, therefore, failed to provide for distribution of the Port Hope surplus assets.

On May 14, 2001, Messrs. Ray Mills and Larry Battersby applied for party status on behalf of plan members and former plan members employed at the Port Hope plant and beneficiaries of same.

A pre-hearing conference is scheduled for September 5, 2001.

Pension Plan for the Employees of Dyment Limited, Registration No. 0242735, FST File No. P0157-2001;

On April 18, 2001, Dyment Limited requested a hearing with respect to the Superintendent's Notice of Proposal dated March 19, 2001, to make an order that the Pension Plan for the

Employees of Dyment Limited, Registration No. 0242735, be wound up in full effective August 23, 1996, and to refuse to approve the actuarial report prepared in April 1997, in relation to the partial wind up of the Plan as at August 23, 1996.

The basis for the Notice of Proposal was that as of August 23, 1996, there were no remaining active members in the Plan and Dyment was no longer required to make contributions. The basis for refusing to approve the actuarial report is that the report does not meet the requirements of the *Pension Benefits Act* and the Regulations and does not protect the interests of the members or former members of the Plan.

On May 22, 2001, Mr. Mobeen Khaja applied for party status. Mr. Khaja was part of a group of employees who were subject to the partial wind up of the Plan, and would be affected by a full wind up of the Plan.

A pre-hearing conference is scheduled for July 13, 2001.

Camco Inc. Pension Plan No. 4 & Pension Plan No. 7, FST File No. P160-2001;

On May 14, 2001, Camco Inc. requested a hearing with respect to the Superintendent's Notice of Proposal dated March 30, 2001, to Refuse to Consent to a Transfer of Assets from the Camco Inc. Pension Plan No. 4, Registration No. 0583302 to the Camco Inc. Pension Plan No. 7, Registration No. 0583336.

The basis for the Notice of Proposal was that the asset transfer does not protect the pension benefits and other benefits of the former members of Plan No. 4 under subsection 81 (5) of the *Pension Benefits Act*.

A pre-hearing conference is scheduled for September 24, 2001.

Consumers Packaging Inc., Registration No. 0998682, FST File No. P162-2001;

On May 17, 2001, Consumers Packaging Inc. requested a hearing with respect to the Superintendent's Notice of Proposal dated April 20, 2001, to Refuse to Approve a Partial Wind-Up Report filed by Consumers Packaging Inc. on May 19, 2000 with respect to a partial wind up of the Consumers Packaging Inc. Pension Plan II, Registration No. 0998682, as at May 7, 1997, and to Refuse to Register an amendment to such Pension Plan filed by Consumers Packaging Inc. on May 19, 2000, titled Amendment No. 2.

The basis for the Notice of Proposal was that Consumers Packaging Inc. filed a partial wind up report in 1997. The Superintendent issued two Notices of Proposal in 1999 ordering Consumers Packaging Inc. to accept as members of the Plan certain replacement call-in employees and refusing to approve the 1997 partial wind up report on the grounds that the replacement call-in employees were not included in the report and that "grow-in" to plant closure benefits was not provided to unionized hourly employees affected by the partial wind up. Consumers Packaging Inc. requested a hearing before the Financial Services Tribunal with respect to both Notices of Proposal. The hearing concerning the call-in employees was settled by the parties and Consumers Packaging Inc. accepted as members of the Plan those replacement call-in employees who met certain conditions. The hearing request regarding the "grow-in" benefits was withdrawn. Consumers Packaging Inc. was ordered to file an amended partial wind up report. In addition, in 1997, Consumers Packaging filed an application to register

Amendment No. 2 to the Plan which provided enhanced bridge benefits to some members.

On May 19, 2000, Consumers Packaging filed a revised partial wind up report (the "revised report") and a revised application to register Amendment #2 (the "revised Amendment"). The Superintendent issued the April 20, 2001 Notice of Proposal on the basis that the revised Amendment is void pursuant to subsection 19(3)(b) of the *Pension Benefits Act* and that the revised report does not meet the requirements of the *Pension Benefits Act* pursuant to subsection 70(5) because the commuted value of the pension benefits and ancillary benefits for the affected members is calculated based on the revised Amendment, which is void under the *Act* and does not protect the interests of the members and former members of the Plan for the same reason.

The Superior Court of Justice, Commercial List issued an Order, dated May 23, 2001, stating that any suit, action, enforcement process, extra-judicial proceeding, regulatory, administrative or other proceeding against or in respect of Consumers Packaging Inc. already commenced be stayed and suspended until and including June 22, 2001. A further Order was issued on June 18, 2001, extending the stay period until August 15, 2001.

Goodyear Canada Inc., Registration No. 0337766, FST File No. P163-2001;

On May 22, 2001, Goodyear Canada Inc. requested a hearing with respect to the Superintendent's Notice of Proposal dated April 24, 2001, to make an Order that the Goodyear Contributory Pension Plan, Registration No. 0337766, be wound up in relation to those members and former members of the Plan who ceased to be employed by Goodyear Canada Inc. between December 1, 1995 and January 10, 1998, at certain Ontario locations on the basis that all, or a significant portion of the business carried on at each such location was discontinued, or sold to a person who did not provide a pension plan for the former members of the Plan who became employees of that person as a result of the discontinuance of all, or a significant portion of the business carried on by Goodyear at a number of specified locations. The hearing request was withdrawn on July 12, 2001.

CBS Canada Co., Registration Nos. 348409 & 526632, FST File No. P164-2001;

On June 8, 2001, CBS Canada Co. requested a hearing regarding the Superintendent's Notices of Proposal dated May 9 and 15, 2001, to Refuse to Approve a Partial Wind-Up Report in respect of the businesses carried on by CBS Canada Co. (formerly Westinghouse) at its Burlington, Ontario; London, Ontario; St. Jean, Quebec; Hamilton, Ontario and Motors Division plants.

The basis for the Notices of Proposal was that the Partial Wind-up Report failed to provide employer-request early retirement benefits and bridge benefits, contemplated by the Plan, to all members of the partial wind-up groups whose age plus years of service equalled at least 55 and because the Report failed to provide for the distribution of any surplus assets relating to particular wind-up groups.

Financial Hardship

Application to the Superintendent of Financial Services for Consent to Withdraw Money from a Locked-in Retirement Account, Life Income Fund or Locked-in Retirement Income Fund based on Financial Hardship.

The following Requests for Hearing have been received.

FST File No.	Superintendent of Financial Services' Notice of Proposal:	Comments
U0149-2001	To Refuse to Consent, dated February 7, 2001	Reasons for Decision dated March 28, 2001, are published in this bulletin on page 135
U0152-2001	To Refuse to Consent, dated February 16, 2001	Reasons for Decision dated May 10, 2001, are published in this bulletin on page 136
U0153-2001	To Refuse to Consent, dated February 15, 2001	Reasons for Decision dated May 10, 2001, are published in this bulletin on page 138
U0158-2001	To Refuse to Consent, dated March 27, 2001	Applicant deceased prior to completion of process.
U0161-2001	To Refuse to Consent, dated April 20, 2001	Hearing (telephone conference) held on June 14, 2001. Reasons for Decision dated June 18, 2001, are published in this bulletin on page 140

Financial Services Tribunal Decisions with Reasons

INDEX NO.:	FST File No. P0099-2000
PLAN:	Brewers Retail Pension Plan for Bargaining Unit Employees, Registration 0336081
DATE OF DECISION:	April 10, 2001
PUBLISHED:	Bulletin 10/2 and FSCO website

*(**Note:** Only FST decisions pertaining to pensions are included in the section)*

***Note:** In this section, "Commission" refers to the Financial Services Commission of Ontario.)*

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. p.8, as amended (the "*Act*");

AND IN THE MATTER OF a refusal by the Superintendent of Financial Services (the "Superintendent") to make an order in response to a complaint regarding the **Brewers Retail Pension Plan for Bargaining Employees, Registration No. 0336081** (the "Plan");

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the *Act*;

BETWEEN: UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 375W
represented by
MR. PATRICK J. MOORE
Applicant
-and-
SUPERINTENDENT OF FINANCIAL SERVICES (the "Superintendent"), **BREWERS RETAIL INC.,** and **UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION/UNITED BREWERS' WAREHOUSING WORKERS' PROVINCIAL BOARD** (the "Union")
Respondents

BEFORE:

Ms. Elizabeth Greville,
Chair of the Panel and Member of the Tribunal
Ms. Heather Gavin, Member of the Tribunal
Mr. Kit Moore, Member of the Tribunal

APPEARANCES:

For the Applicant:	Mr. Thane Woodside Mr. Patrick Moore Mr. Jim Smith
For the Superintendent:	Ms. Shemin Manji Ms. Deborah McPhail
For the Union:	Mr. John Evans Mr. John Montgomery
For Brewers Retail Inc.:	Mr. Dirk Van de Kamer

HEARING DATE:

March 7, 2001
Toronto, Ontario

REASONS FOR DECISION

The Background

On February 24, 2000, the Applicant, now identified as United Food and Commercial

Workers Local 375W represented by Mr. Patrick J. Moore, requested a hearing before the Tribunal, under section 89 of the *Act*. This request arose as a result of the Superintendent's refusal to make an order requested by the Applicant regarding the constitution of the Plan's advisory committee, as provided for in the *Act*.

At a pre-hearing conference held May 17, 2000, it was agreed that the Tribunal would hear a pre-hearing motion regarding its jurisdiction to hear this matter. In a second pre-hearing held by telephone conference on November 16, 2000, it was agreed that the Tribunal would first rule on the need for separate notice of the jurisdictional hearing to be sent to former members of the Plan. Following written submissions, the parties argued the notice issue at the hearing held March 7, 2001.

The Notice Issue

The Tribunal's Rules governing its proceedings include a requirement that the Tribunal provide written notice of hearings. Rule 22.02 of the Tribunal's *Interim Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal* (the "Interim Rules") reads as follows:

> "The Tribunal shall provide written Notice of the Hearing to the parties and others as required by law, and as the Tribunal considers necessary."

The issue to be decided at this hearing is whether separate notice of the hearing on the Tribunal's jurisdiction needs to be provided to former members of the Plan.

The Facts

1. At the pre-hearing conference, the Superintendent raised the issue of notice to former members, based on the Superintendent's understanding that the Union represented only active members of the Plan. This issue was not resolved during the pre-hearing conferences.
2. Following the pre-hearing conferences, the Tribunal received a letter dated January 26, 2001, from the Union, including the following statements:

   > Our client confirms that in the present proceeding it acts on behalf of and represents all active and non-active [members] (deferred vested and retirees/pensioners).
   >
   > Our client confirms that in addition to any statutory obligation, the Union acknowledges that it has a fiduciary duty to represent all members and beneficiaries of the pension plan.

3. The Tribunal received a letter dated February 7, 2001 from the Applicant, confirming receipt of the Union's letter dated January 26, 2001, and stating the Applicant's agreement that the Union "has a fiduciary duty to represent the interests of all members and beneficiaries of the pension plan including deferred vested and retired members". In its letter, the Applicant also stated its position that the acknowledgement by the Union "that it has fiduciary duties vis-à-vis the deferred vested and retirees/pensioners does not obviate the need to ensure that adequate notice of the jurisdictional hearing is provided to the members of these groups".
4. The Tribunal also received a letter dated February 19, 2001 from the Superintendent acknowledging that the Union "is now stating that it represents all active and non-active or former members of the Plan in this proceeding". This letter included a statement by the Superintendent agreeing "that no additional notice to former or non-active members is warranted in the circumstances".

The Arguments

The Applicant argued that:

(a) the Tribunal is responsible for ensuring that adequate notice is provided to any person who may have an interest in the Tribunal's proceedings;

(b) the Tribunal must satisfy itself that notice has been served properly, in its manner, its scope, and its content;

(c) differences between active and former members, and their differing relationship to the Union, lead to inherent conflicts of interest between these two groups of members, as recognized by the Supreme Court in *Dayco (Canada) Ltd. vs National Automobile, Aerospace and Agricultural Implement Workers Union of Canada (CAW-Canada) [1993] 2 S.C.R. 230* (the "Dayco Decision");

(d) despite the Union's declaration that it has a fiduciary duty to represent the interests of all members and beneficiaries, it is not enough for the Tribunal to rely on the Union to represent the differing interests of active and former members; and

(e) the only way to ensure that former members have been properly notified is for the Tribunal to order that proper notice be given to former members.

The Superintendent, who had originally raised the issue of notice to former members, argued that the Union's statement contained in its letter of January 26, 2001, that the Union represents all members of the Plan in this proceeding, meant separate notice to former members is not warranted in the circumstances of this case. In the Superintendent's view, the *Act* contemplates a trade union representing former members of a pension plan, and provides no mechanism for the Tribunal to look behind the Union's statement that it represents all members of the Plan.

The Union stated its position that it represents all active and former members of the Plan, with the result that separate notice of the Tribunal's proceedings need not be provided to any member or group of members. The Union submitted that it has a fiduciary obligation to represent these former members, as supported by the Supreme Court's views expressed in the Dayco Decision, and that failure to consider the interests of these members might form the basis of a claim against the Union for a breach of that fiduciary duty. The Union also noted that it routinely represents former members, for example through collectively bargained improvements for retired members.

The Respondent employer, Brewers' Retail Inc., supported the positions taken by the Union in this matter, noting that the employer has always understood that the Union represents all active and former members.

The Decision

In reaching its decision, the Tribunal panel considered the parties' correspondence and submissions, in the light of its responsibility under Interim Rule 22.02 to provide notice "as the Tribunal considers necessary". Of particular significance was the Union's letter dated January 26, 2001, stating that the Union represents all members in this proceeding, and that the Union acknowledges its fiduciary duty to do so. The panel also noted that the employer, Brewers' Retail Inc., has always understood the Union to be acting on behalf of all members.

Despite these statements by the Union and Brewers' Retail Inc., the Applicant has argued that inherent conflicts of interest between active members and former members require separate notice of the Tribunal's proceedings to be given to former members. The panel has

considered this argument, but takes the view that any such conflicts of interest would be a matter for the Union to take into account in its representation of the Plan members. The panel agrees with the position of the Superintendent, that the *Act* contains no mechanism for the Tribunal to look behind the Union's statement that it represents all members of the Plan.

In this matter, the panel has determined that the Tribunal will consider adequate notice to have been served if notice is provided, in accordance with the *Act* and Regulation, to the existing parties in these proceedings – the Union, the Applicant, Brewers' Retail Inc., and the Superintendent. Given this decision, the panel found it unnecessary to decide the other issues argued in the hearing, such as costs and form of notice.

The panel declines to make any additional notice requirements for former members of the Plan, in the circumstances of this case.

DATED at Toronto, Ontario, this 10th day of April, 2001.

M. Elizabeth Greville
Chair of the Panel

Heather Gavin
Member of the Panel

Kit Moore
Member of the Panel

INDEX NO.:	FST File No. P0100-2000
PLAN:	London Life Insurance Company Staff Pension Plan, Registration 0343368
DATE OF DECISION:	April 18, 2001
PUBLISHED:	Bulletin 10/2 and FSCO website

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an order under Section 69 of the *Act* respecting **London Life Insurance Company Staff Pension Plan, Registration No. 0343368** (the "Plan");

AND IN THE MATTER OF a Hearing in Accordance with subsection 89(8) of the *Act*.

BETWEEN: LONDON LIFE INSURANCE COMPANY
Applicant
-and-
SUPERINTENDENT OF FINANCIAL SERVICES AND THE EXECUTIVE MEMBERS OF THE LONDON LIFE MEMBERS' COMMITTEE, ALEX MURPHY, DON MATHEWSON AND BARBARA MCGEE
Respondents

REVISED DISPOSITION OF REQUEST FOR REVIEW

In written reasons dated February 7, 2001, we rendered our final decision in this matter, directing the Superintendent of Financial Services to carry out a proposal, contained in a Notice of Proposal dated February 17, 2000, to order that the London Life Staff Pension Plan be wound up in part. The order of the Superintendent, modified in accordance with our decision, would direct the wind up of the Plan, pursuant to clause 69(1)(d) of the *Act*, in relation to those members of the Plan who ceased to be employed by London Life in 1996, as a result of the reorganization of the business of London Life.

On February 19, 2001, the Respondents made a Request for Review of our decision pursuant to Part X of the Tribunal's Interim Rules of Practice and Procedure. That Request asks for a review on the basis that our decision failed to address two issues, namely:

> the extent to which employees who voluntarily left their employment at London Life during 1996 should be included or excluded from the partial wind up group affected by the partial wind up; and
> whether clause 69(1)(e) of the *Act* should be invoked to order a partial wind-up of the Plan on the basis of certain office closures and office amalgamations effected by London Life in 1995 and 1997.

London Life responded to the Request for Review on February 26, 2001. We have decided to deal with the Request on the basis of the representations in the Request and the response to the Request and on the basis of subsequent

supplementary representations, all of which were made in writing.

Neither of the two issues that the Respondents would like us to address had to be considered in our decision in order for us to dispose of London Life's challenge to the proposed partial wind up order of the Superintendent.

If the Superintendent is unable to agree with the position that London Life may ultimately take on the first issue – whether some or all of those who voluntarily terminated their employment with London Life should be included in the partial wind up group – she could propose to refuse to approve the partial wind up report reflecting the composition of that group, which London Life is obliged to file under the terms of the *Act*. London Life would then have the opportunity to make another request for a hearing by this Tribunal to challenge any such proposed refusal. In other words, there is an appropriate process, at a subsequent stage in the partial wind up, for resolving the first issue if it turns out to be a real issue in this case. Therefore, it would be premature for us to address the first issue, at this stage, through a review of our decision.

London Life agreed, in the course of the hearing preceding our decision, that the office closures that it carried out in 1995 and 1997 constituted a basis for a partial wind up order, under subsection 69(1)(e) of the *Act*, in relation to the affected employees. If London Life does not proceed to wind up the Plan in relation to those employees, the Superintendent could issue a notice of proposal to order such a wind up. London Life would then be entitled to make a further request for a hearing by this Tribunal in respect of that proposal. In other words, there is an appropriate process for resolving the second issue as it relates to office closures if London Life should fail to proceed with a partial wind up in relation to the employees affected by those closures. Therefore, it would be premature for us to address the second issue in that respect, at this stage, through a review of our decision.

The issue of whether the office amalgamations that London Life carried out in 1995 and 1997 constituted a basis for a partial wind up order, under subsection 69(1)(e) of the *Act*, was not one of the original issues put before us in this case. However, both the office closures and the office amalgamations that took place in 1995 and 1997 were potentially relevant to one of the issues that was before us, namely:

> If the Tribunal should decide to direct the Superintendent to order a partial wind up of the Plan, what are the appropriate commencement and end dates for the partial wind up order concerning the Plan.

Having decided to direct the Superintendent to order a partial wind up, we concluded that the appropriate commencement date and end date for the partial wind up that was the subject of the Superintendent's Notice of Proposal were January 1, 1996 and December 31, 1996 and that there was an insufficient connection between the events occurring outside that period, including the office closures and office amalgamations in 1995 and 1997, and the events occurring within that period, to justify extending the period backwards or forwards. Therefore, we did not need to deal with the question of whether the office closures and office amalgamations that took place in 1995 and 1997 would, of themselves, constitute the basis for a partial wind up order or orders. We believe that it would be unwise to address that question in the context of this case and in the absence of prior consideration of the question,

in a specific and discrete way, through the administrative processes of the office of the Superintendent.

For all of these reasons, we have decided not to review our decision in this matter.

DATED at Toronto, Ontario, this 18th day of April, 2001.

Colin H. H. McNairn,
Vice Chair of the Tribunal and of the Panel

Louis Erlichman,
Member of the Tribunal and Chair of the Panel

William M. Forbes,
Member of the Tribunal and of the Panel

INDEX NO.: FST File No. P0100-2000

PLAN: London Life Insurance Company Staff Pension Plan, Registration 0343368

DATE OF DECISION: June 6, 2001

PUBLISHED: Bulletin 10/2 and FSCO website

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under section 69 of the *Act* respecting the **London Life Insurance Company Staff Pension Plan, Registration No. 0343368**;

AND IN THE MATTER OF a Hearing in Accordance with subsection 89(8) of the *Act*.

BETWEEN: LONDON LIFE INSURANCE COMPANY
Applicant
-and-
SUPERINTENDENT OF FINANCIAL SERVICES AND THE EXECUTIVE COMMITTEE OF THE LONDON LIFE MEMBERS' COMMITTEE,
ALEX MURPHY,
DON MATHEWSON and
BARBARA McGEE
Respondents

DECISION ON REQUEST FOR COSTS

In a decision dated February 7, 2001, the Tribunal directed the Superintendent to carry out the proposal, contained in her Notice of Proposal dated February 17, 2000, to partially wind up the London Life Insurance Company Staff Pension Plan (the "Plan") in relation to those members and former members of the Plan who ceased to be employed by the Employer effective between January 1, 1996 and December 31, 1996, as the result of the reorganization of the business of the employer. We made no order as to costs at that time, but invited the parties to make written representations on that matter.

The Executive Committee of the London Life Members' Committee (the "Members' Committee") has asked for an award of costs against London Life, for its participation incurred in and related to the proceedings requested by London Life regarding partial wind-up of the Plan, including all legal costs and disbursements.

Sub-sections 24(1) and (3) of the *Financial Services Commission of Ontario Act, 1997*, give the Tribunal authority to order payment of the costs of a party to a proceeding by another party.

The Tribunal's Practice Direction on Cost Awards notes that costs will not be awarded as a matter of course, and lays out some criteria for a Tribunal's decision on the award of costs.

The Members' Committee raises two general arguments in support of the award of costs. First, London Life's failure to provide full and accurate information, initially to the Superintendent, and subsequently to the

Members' Committee, hampered the other parties to this proceeding and raised the cost of effective participation, particularly to the Members' Committee.

Second, the Members' Committee argued that London Life put forward a number of "frivolous, vexatious or unreasonable" positions, which prolonged and complicated proceedings, further increasing costs to the other parties.

To deal with the second of these arguments first, the Tribunal does not consider that the fact that a party puts forward arguments which are ultimately unsuccessful is of itself evidence that such arguments are unreasonable. While there can be situations in which a party raises irrelevant issues or puts forward unreasonable positions which are clearly designed to disrupt or prolong hearings, parties have to be given latitude to present arguments, adapt or drop arguments in the light of proceedings and evidence brought forward, without being automatically penalized if their arguments are unsuccessful.

In this case, while London Life's was ultimately unsuccessful in its challenge to the Superintendent's Notice of Proposal, we do not feel that the arguments put forward by London Life were clearly unreasonable or designed to unduly delay or prolong the process.

On the question of the provision of information by London Life, this is a very serious issue for the Tribunal. Typically, it is the plan sponsor or employer who has access to the relevant information on a pension plan, and if the sponsor or employer is not forthcoming with necessary information, it is difficult for the Superintendent or other parties to operate effectively.

Frankly, London Life was in this case slow to provide all of the relevant information, first to the Superintendent and then to the other party. Even recognizing that London Life was undergoing a major corporate reorganization, and that London Life received initial mixed signals from the Superintendent on the declaration of a partial wind-up, London Life has a responsibility to provide information on its pension plan on a complete and timely basis.

The Members' Committee, supported by the Superintendent, argues that the Tribunal should censure London Life for this failure through the award of costs, as a form of exemplary punishment to encourage future compliance by other employers.

Most of the complaints with respect to London Life's failure to provide information relate to its inadequate responses to the Superintendent's requests for information before the Superintendent's Notice of Proposal and the beginning of the Tribunal process. If the Superintendent believes that London Life's misconduct merits a financial penalty, section 110 of the *Pension Benefits Act* lays down significant penalties for failure to comply in a timely manner with the Superintendent's requests for information under section 98 of the *Act*.

The Tribunal does not award costs as a matter of course. In fact, the Practice Direction suggests that the Tribunal will generally award costs only in exceptional circumstances, particularly involving misconduct on the part of a party, so that parties will not be inappropriately discouraged from appearing before the Tribunal by the threat of additional costs.

In this light, we are not persuaded that London Life's shortcomings in providing information created problems or increased costs for the Members' Committee on a scale to justify the award of costs. In addition, as noted earlier, we do not feel that the positions put forward by London Life were patently unreasonable.

We therefore deny the order for costs against London Life requested by the Members' Committee.

DATED at Toronto, Ontario, this 6th day of June, 2001.

Colin H. H. McNairn,
Vice Chair of the Tribunal and
Chair of the Panel

Louis Erlichman,
Member of the Tribunal and the Panel

William M. Forbes,
Member of the Tribunal and of the Panel

INDEX NO.: FST File No. U0149-2001

DATE OF DECISION: March 28, 2001

PUBLISHED: Bulletin 10/2 and FSCO website

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Notice of Proposal to Refuse to Consent (a "Notice") by the Superintendent of Financial Services (the "Superintendent") with respect to an application for withdrawal of money from a life income fund, a locked-in retirement account or a locked-in retirement income fund (a "locked-in account") based on financial hardship;

AND IN THE MATTER OF a Hearing under subsection 89(8) of the *Act*.

REASONS

1. The Applicant in this matter made an application to the Superintendent, on the basis of financial hardship, for access to funds associated with a locked-in account in her name.
2. The Superintendent proposed to refuse the application, by a Notice dated February 7, 2001, on the grounds that the circumstances of the Applicant, as disclosed by the application, are not circumstances of financial hardship as prescribed by subsection 87(1) of Ontario Regulation 909, as amended, adopted under the *Act*. This Tribunal agrees with the Superintendent that this is indeed the case.
3. The Tribunal does not have the authority to consent or to direct the Superintendent to consent to an application for a withdrawal from a locked-in account that does not meet the requirements for obtaining consent that are set out in the Regulation, including the requirement that the circumstances of the Applicant fall within the prescribed circumstances of financial hardship. Therefore, although the evidence of financial hardship on the part of the Applicant is compelling, the application in this case cannot be granted because of the failure to meet those requirements. If the Applicant is able to establish, on the basis of additional evidence, that her circumstances do, in fact, meet those requirements she could, of course, make a further application for withdrawal to the Superintendent.
4. The Tribunal must, therefore, affirm the Superintendent's Notice dated February 7, 2001, in respect of the present application.

ORDER

The Superintendent is hereby directed to carry out the proposal contained in the Notice, dated February 7, 2001, directed to the Applicant.

DATED at Toronto, Ontario, this 28th day of March, 2001.

Colin H. H. McNairn
Vice Chair
Financial Services Tribunal

INDEX NO.: FST File No. U0152-2001

DATE OF DECISION: May 10, 2001

PUBLISHED: Bulletin 10/2 and FSCO website

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Notice of Proposal to Refuse to Consent (a "Notice") by the Superintendent of Financial Services (the "Superintendent") with respect to an application for withdrawal of money from a life income fund, a locked-in retirement account or a locked-in retirement income fund (a "locked-in account") based on financial hardship;

AND IN THE MATTER OF a Hearing under subsection 89(8) of the *Act*.

REASONS

1. The Applicant in this matter made an application to the Superintendent, on the basis of financial hardship, for access to funds associated with a locked-in account of which she was the owner. The particular ground of financial hardship on which the Applicant relied was that set out in paragraph 2 of subsection 87(1) of Regulation 909 (the "Regulation"), adopted pursuant to the *Act*, namely that her husband had received "a written demand in respect of a default on a debt that is secured against [her] principal residence and [she] could face eviction if the debt remains unpaid." The written demand that was alleged to fit this description was contained in a letter dated January 16, 2001 from the Canada Customs and Revenue Agency (the "Agency") to the Applicant's husband giving "final notice" of an income tax debt of approximately $33,000 that, if not paid or the subject of a notice of objection, would result in "legal collection action, such as garnishing your income and directing the sheriff to seize and sell your assets." The Applicant maintained that, having regard to the income and assets of her spouse, the only way that the debt could be fully satisfied would be through the seizure and sale of their principal residence.
2. The Superintendent proposed to refuse the application, by a Notice dated February 15, 2001, on the grounds that the letter from the Agency did not indicate that the income tax debt was secured against the principal residence of the Applicant and that she could face eviction if the debt were to remain unpaid.
3. The Applicant made a Request for a Hearing by this Tribunal in respect of the Superintendent's proposal set out in that Notice. In the meantime, the Agency agreed to hold off taking action to enforce the income tax debt pending the outcome of the Request for Hearing.
4. Under the *Income Tax Act* (Canada), an income tax debt is not secured, in specific terms, against any of the assets of the debtor. If the Minister of National Revenue certifies the debt as an unpaid amount under that *Act*, the debt becomes enforceable as a judgment debt if and when the certificate is registered with the Federal Court of Canada (s. 223(2) and (3) of that *Act*). The court document evidencing that registration may then be filed or recorded, in accordance with

the law of a province, for the purpose of creating a charge or lien on the debtor's property in the same way as a judgment debt may be filed or recorded for that purpose (s. 223(5) of that *Act*).

5. Given the Agency's option of causing these steps to be taken, so as to create a charge or lien on the principal residence of the Applicant, can the Agency's letter of January 16, 2001, be said to represent a demand in respect of a default on a debt secured against the Applicant's principal residence and can she be said to be subject to eviction if the debt remains unpaid? That is the question for this Tribunal. The Applicant's position is that this question should be answered in the affirmative and that the Applicant should not have to wait until a lien or charge is recorded against her personal residence before she can apply successfully for access to the funds in her locked-in account. By that time, she maintained, her credit rating and, therefore, the viability of the new business that she and her husband have started from their principal residence would be threatened.
6. I am of the view that the ground of financial hardship on which the Applicant relies in this case contemplates the *current* existence of security against an individual's principal residence and an *imminent* threat of eviction from such a residence. The income tax debt to which the January 16 letter from the Agency relates is not now secured against the Applicant's principal residence. The possibility, or even the probability, that at some stage it may be does not qualify it as a debt secured against that residence for the purposes of the Regulation.
7. Unfortunately for the Applicant, this Tribunal does not have the authority to relieve against the harshness resulting from the limited scope of the grounds of financial hardship, set out in the Regulation, by expanding those grounds or creating exceptions in appropriate cases.
8. I must, therefore, affirm the Superintendent's Notice dated February 15, 2001.

ORDER

The Superintendent is hereby directed to carry out the proposal contained in the Notice, dated February 15, 2001, directed to the Applicant.

DATED at Toronto, Ontario, this 10th day of May, 2001.

Colin H. H. McNairn
Vice Chair
Financial Services Tribunal

INDEX NO.: FST File No. U0153-2001

DATE OF DECISION: May 10, 2001

PUBLISHED: Bulletin 10/2 and FSCO website

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Notice of Proposal to Refuse to Consent (a "Notice") by the Superintendent of Financial Services (the "Superintendent") with respect to an application for withdrawal of money from a life income fund, a locked-in retirement account or a locked-in retirement income fund (a "locked-in account") based on financial hardship;

AND IN THE MATTER OF a Hearing under subsection 89(8) of the *Act*.

REASONS

1. The Applicant in this matter made an application to the Superintendent, on the basis of financial hardship, for access to funds associated with a locked-in account of which he was the owner. The particular ground of financial hardship on which the Applicant relied was that set out in paragraph 2 of subsection 87(1) of Regulation 909 (the "Regulation"), adopted pursuant to the *Act*, namely that he had received "a written demand in respect of a default on a debt that is secured against his principal residence and he could face eviction if the debt remains unpaid." The written demand that was alleged to fit this description was contained in a letter dated January 16, 2001, from the Canada Customs and Revenue Agency (the "Agency") to the Applicant giving "final notice" of an income tax debt of approximately $33,000 that, if not paid or the subject of a notice of objection, would result in "legal collection action, such as garnishing your income and directing the sheriff to seize and sell your assets." The Applicant maintained that, having regard to his income and assets, the only way that the debt could be fully satisfied would be through the seizure and sale of his principal residence.
2. The Superintendent proposed to refuse the application, by a Notice dated February 15, 2001, on the grounds that the letter from the Agency did not indicate that the income tax debt was secured against the principal residence of the Applicant and that he could face eviction if the debt were to remain unpaid.
3. The Applicant made a Request for a Hearing by this Tribunal in respect of the Superintendent's proposal set out in that Notice. In the meantime, the Agency agreed to hold off taking action to enforce the income tax debt pending the outcome of the Request for Hearing.
4. Under the *Income Tax Act* (Canada), an income tax debt is not secured, in specific terms, against any of the assets of the debtor. If the Minister of National Revenue certifies the debt as an unpaid amount under that *Act*, the debt becomes enforceable as a judgment debt if and when the certificate is registered with the Federal Court of Canada (s. 223(2) and (3) of that *Act*). The court document evidencing that registration may then be filed or recorded, in accordance with the

law of a province, for the purpose of creating a charge or lien on the debtor's property in the same way as a judgment debt may be filed or recorded for that purpose (s. 223(5) of that *Act*).

5. Given the Agency's option of causing these steps to be taken, so as to create a charge or lien on the principal residence of the Applicant, can the Agency's letter of January 16, 2001, be said to represent a demand in respect of a default on a debt secured against the Applicant's principal residence and can he be said to be subject to eviction if the debt remains unpaid? That is the question for this Tribunal. The Applicant's position is that this question should be answered in the affirmative and that the Applicant should not have to wait until a lien or charge is recorded against his personal residence before he can apply successfully for access to the funds in his locked-in account. By that time, he maintained, his credit rating and, therefore, the viability of the new business that he and his wife have started from their principal residence would be threatened.
6. I am of the view that the ground of financial hardship on which the Applicant relies in this case contemplates the *current* existence of security against an individual's principal residence and an *imminent* threat of eviction from such a residence. The income tax debt to which the January 16 letter from the Agency relates is not now secured against the Applicant's principal residence. The possibility, or even the probability, that at some stage it may be does not qualify it as a debt secured against that residence for the purposes of the Regulation.
7. Unfortunately for the Applicant, this Tribunal does not have the authority to relieve against the harshness resulting from the limited scope of the grounds of financial hardship, set out in the Regulation, by expanding those grounds or creating exceptions in appropriate cases.
8. I must, therefore, affirm the Superintendent's Notice dated February 15, 2001.

ORDER

The Superintendent is hereby directed to carry out the proposal contained in the Notice, dated February 15, 2001, directed to the Applicant.

DATED at Toronto, Ontario, this 10th day of May, 2001.

Colin H. H. McNairn
Vice Chair
Financial Services Tribunal

INDEX NO.: FST File No. U0161-2001

DATE OF DECISION: June 18, 2001

PUBLISHED: Bulletin 10/2 and FSCO website

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Notice of Proposal to Refuse to Consent by the Superintendent of Financial Services (the "Superintendent"), dated April 20, 2001, with respect to an application for withdrawal of money from a life income fund, locked-in retirement account, or a locked-in retirement income fund (a "locked-in account") based on financial hardship;

AND IN THE MATTER OF a Hearing under subsection 89(8) of the *Act*;

REASONS

1. The Applicant in this matter requested a hearing in respect of the Superintendent's Notice of Proposal to Refuse to Consent dated April 20, 2001, that denied the Applicant access to funds held in a locked-in account. The Applicant had applied to withdraw these funds, pursuant to subsection 67(5) of the *Act*, which reads as follows:

   67.(5) Despite subsections 1 and 2, upon application, the Superintendent may consent to the commutation or surrender, in whole or in part, of a prescribed retirement savings arrangement of a type that is prescribed for the purposes of this subsection if the Superintendent is satisfied as to the existence of such circumstances of financial hardship as may be prescribed.

2. The Superintendent's ground for denial was that the maximum amount the Applicant may withdraw, determined in accordance with subsections 89(6) and 88(2) of the Regulation, would be less than the minimum $500 withdrawal that may be authorized by Superintendent, as specified under subsection 85(2)(a) of the Regulation.

3. The issue to be determined by the Tribunal is whether or not the Superintendent should have consented to the application.

4. An application for withdrawal based on financial hardship is subject to conditions and requirements prescribed in sections 83 through 89 of the Regulation. Relevant sections include:

   85.(2)(a) The application shall request that the consent authorize the withdrawal of the amount calculated under this Part, which shall not be less than $500;

   88(2) Subject to section 89, ... the owner is entitled to withdraw an amount calculated using the formula, A - (B - C) = D in which

   "A" is the amount the owner applies to withdraw;

   "B" is the market value of all assets of the owner ....

   "C" is the total of the liabilities of the owner ....

   "(B - C)" cannot be less than 0;

   "D" is the amount the owner is entitled to withdraw, net of any withholding tax and fee.

89(6) The amount the owner may apply to withdraw under section 88 is the amount by which "E" exceeds "F" where,

"E" is 50 per cent of the Year's Maximum Pensionable Earnings (YMPE) for the year in which the application is signed; and

"F" is 75 per cent of the owner's expected total income from all sources before taxes for the 12-month period following the date of signing the application.

5. This application was signed in the year 2001, for which the Canada Pension Plan's YMPE was $38,300. Fifty per cent of the YMPE is $19,150. In the application dated March 21, 2001, the Applicant stated that his expected total income from all sources before taxes for the 12 months following the date of the application was $25,085.16. 75 per cent of this amount is $18,813.87. The amount that the Applicant can therefore apply to withdraw is $19,150 – $18,813.87 = $336.13. The Applicant declared that he had no assets or liabilities of a category which is not excluded by the Regulation from these calculations. As a result, the Applicant is entitled to withdraw $336.13, subject to other prescribed conditions in the legislation.
6. The calculated amount of $336.13 does not meet the minimum amount of withdrawal to which the Superintendent may consent, as prescribed by subsection 85(2)(a), which requires that "the amount calculated under this Part ... shall not be less than $500. Therefore, the application does not meet the requirements of subsection 67(5) of the *Act*.

ORDER

The Superintendent's Notice of Proposal to Refuse to Consent, dated April 20, 2001, is affirmed and this application is dismissed.

DATED at Toronto, Ontario, this 18th day of June, 2001.

Mr. Louis Erlichman
Member, Financial Services Tribunal

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The Editor, *Pension Bulletin*
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